

LFC Requester:

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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:
Original Amendment
Correction Substitute

Date 3/1/19
Bill No: HB236HEC

Sponsor: Rep. Patricio Ruiloba
Short Title: ATTENDANCE FOR SUCCESS ACT

Agency Code: 924
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SECTION II: FISCAL IMPACT

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Indeterminate But Minimal	Indeterminate But Minimal	Indeterminate But Minimal	Recurring	General Fund

(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. HB236 repeals and replaces the Compulsory School Attendance Law. HB236 outlines definitions consistent with current practices relating to chronic absenteeism. HB236 outlines intervention minimums and reporting requirements. Additionally, HB236 defines a process for schools with a chronic absence rate of five percent or greater.

Amendments to HB236 clarify definitions to better align with federal definitions and current practices. The amendments remove punitive measures relating to student driver's license.

Amendments clarify processes relating to referrals to the Children, Youth and Families Department.

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.

There are no fiscal implication indicated in HB236.

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. Districts will be able to use at-risk funding to support implementation. Both the LFC budget recommendation and the executive budget recommendation increase the at-risk units. Additionally, the PED will need to provide guidance in an effort to help districts and schools identify current personnel to implement various requirements.

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

Amendments to the definitions on page 2, line 8, through page 3, simplify terminology to clearly articulate that an absence is an absence. This aligns with federal guidance, reporting requirements, and current practices.

Amendments on page 8, line 23 and page 9, line 19 insert "providing additional educational

opportunities to students who are struggling with attendance”. This amendment requires schools to find ways to provide opportunities for students as a part of their intervention plans.

Amendments replacing the term “subpopulation” with “subgroup” throughout HB236 aligns with federal terminology and reporting requirements.

Amendments on page 10, line 21, language was added to require that attendance policies be published on school websites. This requirement suits modern society and norms. Additionally, this requirement enhances transparency.

Amendments on page 14, line 11 require schools with a five percent or greater chronic absenteeism rate to include chronic absenteeism as a part of their school’s educational plan for student success. Every school is required to submit an educational plan for student success each year. This is known as the 90-Day Plan. In the 90-Day Plan schools must identify four indicators. The fourth indicator is optional. HB236 would require schools with five percent or greater chronic absence rates to chronic absenteeism for the fourth indicator. This requirement allows schools to leverage existing processes and personnel when addressing chronic absenteeism issues. According to SY17-18 data, 81% of all schools have a chronic absence rate of five percent or greater. This statistic is not surprising, because in SY17-18, one in six students in New Mexico were chronically absent. Some schools have chronic absence rates that exceed 50% or higher.

Amendments on page 17 and 18 remove reporting requirements regarding make up work. Previous language was found to be burdensome and complicated by members of the House Education Committee. These amendments help ensure quality and consistent data statewide.

Section 11 amendments ensure that language in Section 11 is consistent with the amended definitions. These amendments provide clarity regarding the required interventions for students who are identified as in need of “individualized intervention”, “early intervention”, and “intensive support”. These interventions provide a framework that uses evidence-based practices studied by Attendance Works.

Section 12 amendments remove the driver’s license piece and ensure the early intervention of the Children, Youth and Families Department. This section outlines the process as it relates to the Children’s Code. Additionally, updated language ensures that initial meetings with the FINS takes place at the school. Locating these meetings at school may provide a less intrusive environment for students and families. Additionally, earlier intervention by FINS will provide for better opportunity to help students and families get the services they need to be successful. Early intervention is prevention for more significant issues, including behavioral issues and drop out.

Amended language in Section 12 requires school administrators to submit the required documentation of absenteeism and interventions to the Juvenile Probation Services Office within ten business days. This requirement will ensure that students and families receive services sooner. This will also help to streamline the communication between the Juvenile Probation Services Office and schools.

Amendments to Section 13 simplify data reporting requirements to reduce the burden on schools and districts. The PED will need to develop clear guidance to help schools and districts submit required data appropriately and in alignment with report dates. The PED releases technical assistance each year to help support districts and schools with any reporting changes.

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 9 outlines requirements regarding absences for medical reasons and absences for cultural observance. HB236 requires that an opportunity to complete make up work is given to students who are absent.

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.

Additionally, the PED will need to provide clear guidance and update current regulations to

support districts and schools as they transition from the requirements in the Compulsory Attendance Law to requirements outlined in HB236.

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. The PED and LESC collaborated and decided that this was ultimately not an issue.

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

Some 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 recommended reducing this to 15% to ensure that more intensive intervention occurs earlier. In working with Mission: Graduate, the PED has determined that 20% is appropriate given current practices and in an effort to create clear differentiation between intervention tiers. Per the amendment, this term was changed to “intensive support”

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.

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

NONE

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