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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
54th Legislature, 1st Session, 2019

Bill Number	<u>HB236/aHEC</u>	Sponsor	<u>Ruiloba</u>
Tracking Number	<u>.211244.3</u>	Committee Referrals	<u>HEC/HJC; SEC/SJC</u>
Short Title	<u>Attendance for Success Act</u>		
Analyst	<u>Stiles</u>	Original Date	<u>2/2/19</u>
		Last Updated	<u>3/4/19</u>

BILL SUMMARY

Synopsis of HEC Amendment

The House Education Committee Amendment to HB236 (HB236/aHEC) changes several initial definitions within the bill. The amendment adds language to the bill requiring schools to maintain an attendance policy that includes provisions to provide additional educational opportunities to students who are struggling with attendance. The amendment strikes language requiring a student's excused absence to be changed to an unexcused absence if the student does not make up work in a reasonable time. HB236/aHEC adds language requiring public schools to publish the school's attendance policy on the school website.

HB236/aHEC strikes Section 11, which outlined the progressive interventions for absent, chronically absent, and excessively absent students in its entirety and replaces it by outlining progressive interventions for absent, chronically absent, and excessively absent students using language recommended by the Public Education Department (PED). The amendment also removes Section 12, which required a referral to the Children, Youth and Families Department (CYFD) and possible driver's license revocation, and replaces it with a section outlining the interventions if a student continues to have unexcused absences after all other interventions have been exhausted. HB236/aHEC also strikes Section 13 and replaces it with a section outlining the requirements for reporting on absenteeism. The changes are similar to the provisions previously in HB236, but language is removed differentiating excused absences from unexcused absences for purposes of tracking chronic absenteeism. HB236/aHEC changes all mentions of subpopulations in the bill to subgroups.

Synopsis of Original Bill

House Bill 236 (HB236) 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. The interventions are progressive and begin by meeting with parents and progress to a potential referral to the Children, Youth and Families Department (CYFD). Interventions for absent students focus on non-punitive consequences and partnerships between schools and local service providers, businesses, healthcare

providers, counselors, and civic groups to involve the entire community in supporting students' attendance. The bill also requires public schools and school districts to report specific attendance metrics to the PED.

FISCAL IMPACT

The bill does not contain an appropriation; however, PED notes additional staff may be necessary to review and approve attendance improvement plans, which may mean hiring additional staff or shifting work portfolios to meet PED's needs. PED notes fiscal implications would be minimal for the department; however, school districts and schools may have a difficult time implementing the requirements of HB236/aHEC without additional staff at the school and school district level.

CYFD analysis indicates HB236/aHEC may result in additional operating budget impacts to the department, but states the fiscal implications are unknown as it is dependent on the number of students referred to the Families in Need of Services program of CYFD. CYFD reports receiving 1,159 truancy referrals out of a total referral population of 8,409 in FY17. The provisions of HB236/aHEC would require a caseworker from the child or family in need of family services program of CYFD to meet with each referred student at the student's school, and to monitor the student as appropriate as a result of any interventions. The number of additional CYFD caseworkers necessary to address each student case could be substantial. CYFD notes it is unclear if CYFD will be able to absorb the caseload expansion the bill will potentially cause through existing resources.

PED notes it currently runs multiple programs that relate to attendance initiatives. Currently PED has an appropriation of \$4 million for the attendance success initiative grant for FY19, which provides funding for about 47 additional FTE at the school or school district level and programmatic expenses for 29 school districts and charter schools. The appropriation also covers implementation costs for PED. PED further notes a separate program which uses \$250 thousand to help districts and schools implement early warning systems in partnership with Johns Hopkins University and Extension for Community Healthcare Outcomes. PED notes the FY20 executive budget recommendation includes \$6 million to continue and grow the attendance success initiative grant and \$1.5 million for early warning systems. These funds would help school districts and schools to implement the provisions of HB236/aHEC.

SUBSTANTIVE ISSUES

Absences — Definitions and Reporting

The shift in focus from habitual truancy to chronic absenteeism is consistent with the national trend. Under the Every Student Succeeds Act (ESSA), many states are focusing on chronic absenteeism rates over habitual truancy rates. Research indicates there are various reasons for chronic absenteeism, but common reasons include poor health, limited transportation, and lack of safety. The Education Commission of the States recommends all states incorporate chronic absenteeism data into their ESSA state accountability plans to encourage school districts and charter schools to adopt and implement interventions to reduce chronic absenteeism rates. New Mexico's ESSA plan uses language consistent with this recommendation. HB236/aHEC defines "school districts" to include charter schools and "school principal" to include the head administrator of a charter school.

Public School Requirements and Reporting. HB236/aHEC maintains similar language to the Compulsory Attendance Law regarding a school-age person’s right to a free a public education. HB236/aHEC defines “chronic absence rate” to mean the percentage of students, in the aggregate and disaggregated by the subgroups required for reporting pursuant to the federal Every Student Succeeds Act, in a public school and a school district who have been enrolled for at least ten days and who have missed ten percent or more of school days since the beginning of the school year. The bill defines “chronically absent” or “chronic absenteeism” as a student having been absent for ten percent or more of classes or school days for any reason, whether excused or not, when enrolled for more than ten days. The bill also defines “excessively absent” or “excessive absenteeism” as a student who is identified as needing intensive support and has not responded to intervention efforts implemented by the public school. This replaces language in the Compulsory Attendance Law, which instead defines “habitual truant” as a student who has accumulated the equivalent of 10 days or more of unexcused absences within a school year. The language change would help schools to identify students at risk for chronic absenteeism earlier than current law. The bill repeals language defining “student in need of early intervention” as a student who has accumulated five unexcused absences within a school year, which means students may be allowed to have five unexcused absences before any intervention.

HB236/aHEC would require attendance to be taken for every instructional class as well as for school days. Current law and HB236/aHEC require schools to document attempts to notify a parent when a student is chronically or excessively absent, but HB236/aHEC additionally requires schools to document attempts to improve attendance by talking to the student or parent to identify barriers and discussing interventions regarding the student’s attendance.

Both current law and HB236/aHEC provide for excused absences, with required documentation, if students are absent because of medical reasons or pregnancy; care of a student’s child under the age of 13; or religious reasons; however, HB236/aHEC provides excused absences for tribal obligations as well. HB236/aHEC would require public schools to maintain an attendance policy that provides additional educational opportunities to students who are struggling with attendance. HB236/aHEC would maintain current law regarding student participation in interscholastic extracurricular activities, and regarding students who experience disruption in their education.

HB236/aHEC would require a public school’s attendance policy to encourage and support compliant data sharing between a public school and community-based organization that may provide personalized interventions to a student, pursuant to the federal Family Educational Rights and Privacy Act of 1974. HB236/aHEC would further require public schools to provide parents with access to a student’s attendance information, including intervention strategies that have been used, within five days of a parent request. Public schools would also be required to make chronic absence rates, in the aggregate and disaggregated by all subgroups, available upon request.

Local School Board and School District Reporting. HB236/aHEC would require local school boards to review and approve their public school attendance policies, and to report absences as well as chronic and excessive absence data to the PED at each reporting date and at the end of the year. School districts would further need to document intervention efforts made to keep all students in an educational setting, and PED would be required to compile school district reports to certify the information is being reported consistently and correctly, and to share information from state-chartered charter schools with the Public Education Commission.

School districts would be required to report attendance improvement plans to PED by the 45th day of the school year, and PED would have the option of allowing a school district to report its

attendance improvement plan as part of its educational plan for student success. Each school district would be required to report the progress made on the attendance improvement plan to the local school board at the end of each school year.

HB236/aHEC would provide new attendance reporting guidelines for school districts, requiring them to report the total excused and unexcused absences for each student in each public school, the total number of days each student was enrolled, and the attendance improvement plan tier each student with absences fell into during the reporting period. School districts would also be required to report the number of students at each school who were referred to CYFD, the average number of excused and unexcused absences per student for all students and subgroups, a calculated chronic absenteeism rate for the school district for all students and for each subgroup, and the number of excused absences that were converted to unexcused absences because the student did not complete missed classwork.

Interventions

Early Warning Systems. HB236/aHEC would require public schools to maintain an attendance policy that establishes an early warning system that helps to identify students who are at risk of being chronically absent. Early warning systems would be required to focus on restorative measures to combat chronic or excessive absenteeism by keeping students in an educational setting and prohibiting out-of-school suspension or expulsion as punishment for absences. The policy should serve to assist a student's family to remove barriers keeping the student from attending school regularly, and also limits the ability of a student to withdraw only after all other intervention efforts by the public school system and CYFD have been exhausted.

The U.S. Department of Education (USDE) defines an early warning system as a system based on student data to identify students who exhibit behavior or academic performance that puts them at risk of dropping out of school, including chronic absenteeism. Early warning systems help school districts and schools pinpoint student achievement patterns and school climate issues that may contribute to students dropping out of school. PED currently supports school districts to implement early warning systems through a program in partnership with Johns Hopkins University. Although PED indicated this program has demonstrated some return on investment, only 47 school districts and charter schools implement the early warning system with success.

Attendance Teams. HB236/aHEC would require the formation of attendance teams to collaborate to provide supports for chronically and excessively absent students. HB236/aHEC defines "attendance team" as a group of school-based administrators, teachers, staff, other school personnel, and community members who collaborate to implement an attendance improvement plan. This definition is consistent with the model recommended by Attendance Works, a national initiative with the mission of advancing student success and reducing equity gaps by reducing chronic absenteeism. Attendance Works notes attendance teams perform a variety of attendance related tasks in schools, such as examining students with attendance issues to ensure each student receives appropriate support, using data to develop a full picture of what is happening in the student's life to identify possible interventions, and reviewing outcomes of prior interventions to determine if supports were effective. These teams can also work with staff and administration to develop strong attendance policy.

Attendance Improvement Plans. HB236/aHEC defines "attendance improvement plan" as a tiered data-informed system for public schools and school districts to identify students who are

chronically or excessively absent and to aid public schools in developing whole-school prevention strategies and targeted interventions. The attendance improvement plan includes four tiers:

- “Whole school prevention” means universal, whole-school prevention strategies for all students, including students who have missed less than 5 percent of classes or school days for any reason;
- “Individualized prevention” means targeted interventions for individual students who are missing 5 percent or more but less than 10 percent of classes or school days for any reason;
- “Early intervention” means interventions for students who are missing 10 percent or more but less than 20 percent of classes or school days for any reasons; and
- “Intensive support” means interventions for students who are missing twenty percent or more of classes or school days for any reason.

HB236/aHEC outlines progressive interventions public schools are required to have for excessively absent students, which begin with communicating with the student’s parent to discuss the student’s attendance history and discuss the impact of student absences on student academic outcomes and the interventions or services available for the student or family, as well as the consequences of further absences, which may include a referral to CYFD. The interventions escalate if the student’s attendance continues to be an issue, and if a student’s absences fall within the guidelines for the intensive support tier of the attendance improvement plan, the attendance team would be required to give written notice to the parent, including the 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 parent of the consequences of further absences.

HB236/aHEC would require each local school board and each governing body of a charter school to initiate the enforcement of the provisions of the Attendance for Success Act for excessively absent students. If unexcused absences continue after written notice of excessive absenteeism, the local school board or governing body of a charter school, after consultation with the local superintendent or head administrator of a charter school or private school, would be required to report the excessively absent student to the probation services office of the judicial district in which the student resides for an investigation as to whether the student should be considered to be a neglected child or a child in a family in need of family services, and would be subject to the provisions of the children’s code. The local superintendent or head administrator of a charter school or private school would be required to provide the record of the school’s interventions and responses to the juvenile probation services office within ten business days of the student being identified as excessively absent.

HB235/aHEC would require that, if the juvenile probation services office determines the student is a child in a family in need of family services, a caseworker from the child or family in need of services program would be required to meet with the family at the public school in which the student is enrolled to determine if other prevention services are available. The meeting would be required to include the school principal or other school personnel and, unless the parent objects in writing, appropriate community partners. CYFD would be required to determine if additional interventions, including monitoring, will positively affect the student’s behavior.

ADMINISTRATIVE IMPLICATIONS

PED notes it will need personnel to review and approve attendance improvement plans, which may mean hiring additional staff or shifting work portfolios to meet PED's needs.

Districts would need to develop attendance improvement plans.

OTHER SIGNIFICANT ISSUES

According to PED, 16.6 percent of students statewide were chronically absent during the 2017-2018. PED defines a chronically absent student as a student who was absent from school for any reason for 10 percent or more of the days of enrollment. PED notes average statewide habitual truancy rates have been around 15 percent in recent years. According to the most recent information from USDE's Office of Civil Rights in the U.S. Department of Education (USDE), in the 2015-2016 school year, New Mexico's chronic absenteeism rate was 17.5 percent, or 2 percentage points higher than the national average; however, data quality should be considered because chronic absenteeism reporting rates seem to be inconsistent.

USDE recommends states use chronic absenteeism rates as a measure for student attendance over habitual truancy, and that states collect robust data on the extent and nature of chronic absenteeism to provide more information to teachers, principals, policymakers, and other stakeholders. USDE further recommends states and school districts implement early warning systems, school districts convene local taskforces to research the root causes of chronic absenteeism, and school districts partner with third-party providers and agencies to provide support services to students who are chronically absent. These recommendations are consistent with the provisions outlined in HB236/aHEC.

A 2016 LFC program evaluation, *Assessing Time-on-Task and Efforts to Extend Learning Time*, noted attendance and truancy are critical factors impacting student outcomes. It also noted previous LFC evaluations showed chronic absenteeism can dramatically affect student success and is a major indicator of dropout risk. The purpose of HB236/aHEC is to provide students with the supports necessary to minimize disruption in learning time and improve student achievement.

HB236/aHEC also amends definitions in Section 32A-3A-2 NMSA 1978 of the Children's Code to align with the proposed Attendance for Success Act.

SOURCES OF INFORMATION

- LESC Files
- Public Education Department (PED)
- Children, Youth and Families Department (CYFD)
- Human Services Department (HSD)

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