

LFC Requester:	Sunny Liu
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**AGENCY BILL ANALYSIS
2017 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** 2-20-17
Original **Amendment** **Bill No:** HB437
Correction **Substitute**

Sponsor: Rep. Patricio Ruiloba
Rep. James G. Townsend
Rep. Jimmie C. Hall
Sen. John M. Sapien
Agency Code: 924

Short Title: SCHOOL ATTENDANCE INTERVENTIONS **Person Writing:** Aguilar/Pahl/Cassel
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SECTION II: FISCAL IMPACT

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	See Fiscal Implications	See Fiscal Implications	See Fiscal Implications	Recurring	General

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

House Bill 437 (HB437) amends and/or adds new material related to compulsory school attendance to Sections 22-12-2 through 22-12-5, 22-12-7 through 22-12-9, 32A-3A-2, and 32A-3A-3 NMSA 1978.

The foci of this bill revises the age for when a student can leave school in hardship cases, adds 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 the Public Education Department (PED), and new requirements for families in need of services program provided by the Children, Youth and Families Department (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.

In Section 22-12-2, HB437 amends the students' Compulsory School Attendance Law to allow those students over the age of sixteen to leave school in the case of hardship, provided that the public school and CYFD have offered intensive interventions and that the student's parent provides written and signed permission for the student to leave school. This section also compels private schools to enforce school attendance in accordance with their attendance policies, and stipulates that students shall not be absent from school in excess of fifteen times per semester due to interscholastic activities unless they make up missed class material.

HB437 amends Section 22-12-3 to include those students who may be excused from school due to tribal obligations for not more than one class period each school day. This section is also amended to change excused absences to medical absences for pregnant and parenting students.

In Section 22-12-4, HB437 amends school-age person's rights to free public education except for those persons detained or residing in a state or local detention center.

HB437 adds new definitions in Section 22-12-7 for "absent", "habitual truant", "medical absence", "nine-week period", "pattern of absences", "school day", and "truant".

HB437 adds new reporting requirements for Section 22-12-8 for public schools to maintain attendance policies and remedial procedures that provide for the early identification of students needing absentee intervention.

In Section 22-12-9, HB437 amends the attendance enforcement provisions of the Compulsory School Attendance Law for public schools to have a family and youth resources program to provide interventions to students who are absent or truant. HB437 also adds specific procedures for CYFD caseworkers to meet with families in need of services at the public schools that could lead to possible suspension of students' driver licenses and possible penalties for parents of truant students who knowingly allow their students' truancy.

FISCAL IMPLICATIONS

There are no financial allocations associated with HB437. However, with considerably more administrative responsibilities with the additions of the policy amendments and reporting requirements as noted in Sections 22 and 32A, there may be greater administrative costs associated with policy revision and implementation required by schools and state agencies.

HB437 requires every public school to have a Family and Youth Resource program to provide interventions to students who are absent or truant.

SIGNIFICANT ISSUES

HB437 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 the Motor Vehicle Division 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. **There is no provision for revocation/suspension of a learner's permit or blocking a driver's age student of obtaining a driver's license.**

HB437 also provides a new section of the Compulsory School Attendance Law to require that every public school shall have interventions in place for students who are absent or truant. Many school districts with low truancy rates already provide these services for their students.

The PED policy on school attendance is clearly defined and communicated to all schools throughout the state. The New Mexico Administrative Code, Title 6, Chapter 10, Part 8 (6.10.8 NMAC), "Compulsory School Attendance" provides required guidelines that include the expectation 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 6.10.8 NMAC include school attendance policies at the local level to provide for early identification of students with unexcused absences or those who are habitually truant and to further provide such students with early intervention in the educational setting. Parents/Guardians are also to be informed and to provide explanation of their child's absences, then to work with the 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 judicial district wherein s/he resides. Schools may also follow through with lawful assistance if a truant is not properly reported by probation officers for further actions. Under current NMAC 6.10.8 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."

Source: <http://164.64.110.239/nmac/parts/title06/06.010.0008.htm>

The Importance of Being in School: A Report on Absenteeism in the Nation's Public Schools states that: "Because students reared in poverty benefit the most from being in school, one of the most effective strategies for providing pathways out of poverty is to do what it takes to get these students in school every day. This alone, even without improvements in the American education system will drive up achievement, high school graduation, and college attainment rates."

Source: <http://www.sia-us.com/news-and-events/sia-research-articles/the-importance-of-being-in-school-a-report-on-absenteeism-in-the-nations>

In the 2014-2015 School Year, 14.29 percent of New Mexico students were identified as habitual truants, representing a decrease of 1.21 percent from the prior school year of 16.29 percent. Truancy impacts a student's ability to learn and grow, and often places students at higher risk for dropping out of school altogether.

PERFORMANCE IMPLICATIONS

HB437 may reinforce existing efforts that support the PED's *Strategic Lever 2: Real Accountability. Real Results* through increasing parental involvement and *Strategic Lever 3: Ready for Success* by increasing graduation rates.

ADMINISTRATIVE IMPLICATIONS

HB437 requires the PED to revise 6.10.8 NMAC, Compulsory School Attendance, to be in alignment with the new language and amended language as prescribed in the bill.

HB437 requires the PED to compile school district and charter school reports on types of absences, rates of absences and truancy, and require certification that school districts and charter schools provide consistent absentee and truancy reporting. PED's Student Teacher Accountability Reporting System (STARS) database already requires that unexcused absences be reported to the PED throughout the school year for all students. STARS also provides guidelines for determining who is a habitual truant student, as one who has accumulated the equivalent of ten or more full-day unexcused absences within a school year. HB437 would require modifications to STARS to be in alignment with the new and amended language as prescribed in the bill.

TECHNICAL ISSUES

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

On page 4, lines 3 through 5, the exception for maintaining a 2.0 grade point average in order to participate interscholastic extracurricular activity has been changed from not applying to special education students placed in class C and class D programs to students receiving moderate to maximum special education services. These classifications stood for extensive to maximum special education services. Students receiving moderate special education services would be able to meet the minimum grade point average requirement for participation in interscholastic activities with or without accommodations.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

If HB437 is not passed, the PED and local education agencies (LEAs) would continue to implement the Compulsory School Attendance Law and New Mexico Administrative Code within the existing parameters and consequences for students who are habitually truant.

AMENDMENTS

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.