

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website (www.nmlegis.gov) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR Larrañaga **ORIGINAL DATE** 01/21/14
LAST UPDATED _____ **HB** 47

SHORT TITLE School Truancy Identification & Penalties **SB** _____

ANALYST Gudgel

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY14	FY15		
	None		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
		See Fiscal Implications				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the District Attorneys (AODA)

Public Education Department (PED)

Administrative Office of the Courts (AOC)

Responses Not Received From

Taxation and Revenue Department (TRD)

Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

House Bill 47 amends the Compulsory School Attendance Law and the Motor Vehicle Code, prohibiting a “school age person” in eighth through 12th grade from withdrawing from public school unless certain requirements and circumstances are met, and, beginning with the 2015-2016 school year (FY16), requiring the Motor Vehicle Department (MVD) to suspend or deny

the driving privileges of a school age person that does not meet withdrawal criteria established in the bill or a “school age person” who is habitually truant as defined by current law until the individual reaches their 18th birthday where the school district or state-chartered charter school has sent the family notice of noncompliance with the Compulsory School Attendance Law and then sends a certification of noncompliance to the family and the MVD. The bill established due process requirements related to the notice of noncompliance and following suspension or denial of driving privileges.

The bill requires the Public Education Department (PED) to develop, and school districts to implement, an early identification and notification system to minimize unexcused absences and prevent habitual truancy and withdrawal from school.

The bill also establishes reporting requirements for schools, school districts, and PED.

FISCAL IMPLICATIONS

Provisions requiring immediate intervention aligned with the students’ next step plan be provided to each student who demonstrates any risk factor that might lead to withdrawal from school could be costly to school districts, though the bill does not specify what interventions are to be taken.

Neither the LFC recommendation nor the executive recommendation include an appropriation for school district intervention pursuant to this bill or for PED to develop an early identification and notification system for school districts to implement. PED notes that because school districts and charter schools are required to report unexcused absences and habitual truancy to PED, creation and implementation of an early identification and notification system should not be cumbersome to PED or to school districts.

The AOC notes there will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law and appeals from MVD’s final decisions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

Additionally, there could be increased administrative costs for both the PED and the MVD related to enforcement of the provisions of this bill.

SIGNIFICANT ISSUES

Withdrawal Provisions

The bill prohibits any eighth through 12th grade “school age person” from withdrawing from a public school unless:

- The parent provides written documentation of the students enrollment at another public, private, or home school;
- The school receives written documentation the student is ill, is employed full time to support the family because of a financial hardship, or the school receives an order by a court that has jurisdiction over the school-age person; or

- The student and parent(s) attend an exit interview with the school principal where they sign acknowledgement that withdrawal is likely to diminish the future earnings and long-term employment prospects of the student **and** the principal agrees to withdrawal.

Withdrawal provisions of the bill will become effective when the bill becomes effective.

Driving Privilege Suspension Provisions

Beginning with the 2015-2016 school year, eighth through 12th grade students who do not meet the withdrawal provisions of the bill or who are deemed “habitually truant” by current law (a student who has accumulated the equivalent of ten days or more of unexcused absences within a school year) may face denial or suspension of their driving privileges until the student reaches their 18th birthday. The school **may** provide notice of noncompliance with the Compulsory School Attendance Law to a student and parent containing notice of the opportunity to request a meeting with the school within two weeks of receiving the notice to either commit to returning to school, contest the number of unexcused absences, or provide evidence that the student is not subject to the provisions of the Compulsory School Attendance Law. Additionally, no fewer than 30 days after the notice of noncompliance is sent to the parent if the student remains noncompliant, the school district or state-chartered charter school **may** provide the student’s parent and the Motor Vehicle Division (MVD) certification of noncompliance with the Compulsory School Attendance Law. Upon receipt of this notification, the MVD **must** suspend or deny the noncompliant student’s driving privileges. Suspension or denial applies to instructional permits, driver’s licenses, and provisional licenses. A noncompliant student may request a hearing from the school district or state-chartered charter school to request the school district or state-chartered charter school to provide the MVD with certification that the student is in compliance with or no longer subject to the Compulsory School Attendance Law. The noncompliant student may appeal the school district or state-chartered charter school’s determination to the PED, and appeal the final determination of PED to district court.

Early Identification and Notification System Requirements

PED will be required to develop, and school districts required to implement an early identification and notification system to minimize unexcused absences and prevent habitual truancy and withdrawal from school. Schools will be required to request, in writing, a meeting with a student’s parent when a student accumulates five unexcused absences to discuss the reasons for absences, immediate interventions, parental involvement to prevent further unexcused absences, and consequences of habitual truancy. The bill established the following risk factors that might lead to withdrawal from school, and requires school districts to provide immediate intervention for each student who demonstrates any risk factor:

- Multiple discipline referrals;
- Third grade proficiency scores below the proficiency level;
- Habitual truancy or failing a course in grades six through nine; or
- A GPA of 1.5 or below in ninth grade.

School districts and charter schools will be required to provide immediate intervention with students who have more than 5 unexcused absences, are habitually truant, or demonstrate risk factors with withdrawing from school. Intervention must keep students in the educational setting and cannot include out-of-school suspension or expulsion as a punishment.

Reporting

Once per semester each school shall report to the school district, and once per school year each school district shall report to the PED the number of students who: have five unexcused absences; have 10 unexcused absences; withdrew from school pursuant to the provisions of the bill with and without an exit interview; stopped attending school during a semester; or failed to return to school after a break.

PERFORMANCE IMPLICATIONS

The AOC notes the bill may have an impact on the following measures of the district courts: cases disposed as a percent of cases files; and percent change in case filings by type.

PED notes the bill may improve graduation rates. It is possible that student proficiency, college remediation rates, and other student performance indicators may be improved as well.

ADMINISTRATIVE IMPLICATIONS

PED will be required to establish new rules, at a minimum, related to an appeal of a determination of whether a school age person is in compliance with or is no longer subject to the provisions of the Compulsory School Attendance Law. Depending on the number of appeals, this could place significant burden on PED. PED is currently understaffed and continues to operate with significant vacancies around 30 percent, or more than 70 FTE.

PED will also be required to develop an early identification system to minimize unexcused absences and prevent habitual truancy and withdrawal from school. The department analysis indicates this can be accomplished with current resources.

The MVD will be required to promulgate regulations consistent with the provisions of the bill. PED analysis indicates PED and MVD “have already begun coordinating on the best way to ensure appropriate implementation by schools, districts, and the departments.”

It appears compliance decisions related to locally chartered charter school students will be made by at the school district level. It is unclear if it will be the authorizing school district that will be responsible for making decisions about noncompliant charter school students or the school district within which the student resides in the instance of the two virtual charter schools that enroll many students that do not reside in the authorizing school district. School districts that determine a locally chartered charter school student to be noncompliant will be the entity involved in the process moving forward, up to an appeal hearing with the PED, and potentially district court litigation.

DUPLICATION

House Bill 44 is a duplicate.

Senate Bill 45 amends other sections of law to standardize the term “high school equivalency credential” rather than referring to the general educational development certificate, a proprietary exam and similar terms. Senate Bill 45 omits Section 22-12-2 NMSA 1978. LFC staff has recommended an amendment to SB 45 to include changing the use of “general educational development certificate” in Section 22-12-2 NMSA 1978.

TECHNICAL ISSUES

Page 4, Paragraph (c) of Subsection E (lines 14 through 19) does not include the opportunity to provide evidence that the student meets the requirements in Subsection D of this Section.

The bill establishes a time period in which the school district or state-chartered charter school must wait before sending a notice of noncompliance to the Motor Vehicle Department and suspending a school age person's privileges to drive; however, it does not establish any timelines related to the hearing at the school district, PED, or an appeal filed with District Court. The Legislature may wish to establish reasonable times within which the school district or state-chartered charter school must hold a hearing on the certification, and within which PED must render a decision on an appeal of the final decision from the school district on the certification.

Additionally, provisions of the bill **only allow the noncompliant school age person** to request a hearing from the school district or state-chartered charter school, appeal that decision to PED, and appeal PED's final determination to district court. The Legislature may wish to amend this provision (page 5, lines 10-12, and page 10, lines 8-10) to include the parent of the student as able to request a hearing.

The amendments made allowing suspension of driving privileges only apply to school age children who are enrolled in public schools. These provisions do not apply to students of private schools, home schools, and state institutions though all of these students are subject to the Compulsory School Attendance Law. It is unclear why these provisions do not apply to all "school age children" in the state subject to the provisions of the Compulsory School Attendance Law.

Section 3 (page 11) – early identification and notification and immediate intervention system – Paragraph A requires school districts to implement an early identification and notification and immediate intervention system, appearing to omit charter schools from the requirement. However, remaining paragraphs require actions by schools, creating potential confusion about which entities the section applies to. LFC staff suggests amending Paragraph A to include charter schools.

Additionally, the reporting requirements contained in Section 4 of the bill appear to omit reporting requirements for charter schools, in particular state-chartered charter schools.

OTHER SUBSTANTIVE ISSUES

The AOC notes the following:

- 1) Judges currently use driving privileges as a tool to incorporate in a juvenile disposition. It is unclear whether a Children's Court judge would receive the information regarding the status of a school-aged person's driving privileges. It is likely that a judge would continue to find this information helpful in a disposition.
- 2) The Motor Vehicle Code, Section 66-5-36 NMSA 1978, provides a right of appeal to the district court to a person whose license has been cancelled, suspended, or revoked by MVD, except when the cancellation or revocation is mandatory under Chapter 66, Article 5. HB 47 requires the MVD to suspend or deny driving privileges, yet also provides for appeal of the MVD's final decision to the district court.

The PED analysis notes the following:

Currently, more than 15 percent of New Mexico students are habitually truant. The bill allows for multiple opportunities for support for students before consequences are taken. Further, the bill allows for students to avoid being referred directly to the courts, as is now the case. The process established in the bill is modeled after a similar program in Indiana. The state has seen a significant reduction in the dropout rate since the program was put in place four years ago. The bill requires immediate intervention with any student who demonstrates risk factors which may lead to withdrawal from school. Research shows that early intervention involving the student's parent can prevent truancy.

RSG/svb