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FISCAL IMPACT REPORT

ORIGINAL DATE 2/15/07

SPONSOR Swisstack LAST UPDATED _____ HB 449

SHORT TITLE Truancy Reporting and Referral SB _____

ANALYST Lucero

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	"NONE"		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Education Department (PED)
 Attorney General's Office (AGO)
 Juvenile Parole Board (JPB)
 Children, Youth and Families Department (CYFD)
 Department of Finance and Administration (DFA)

SUMMARY

Synopsis of Bill

House Bill 449 amends portions of the Compulsory School Attendance Law and the Children's Code on issues involving truancy. The bill does the following:

- Cleans up language removing references to the "State Superintendent" and replacing them with "Secretary";
- Permits the Probation Services Office to direct by written notice the parent of a habitually truant student to report to that office to discuss family services for the student or the family;
- Permits the Probation Services Office or that student's school to make a referral to the Protective Services Division (PSD) of the Children Youth and Families Department (CYFD) to determine if an investigation is warranted, if a habitually truant student is 12 or younger. But if the PSD does not conduct an investigation, it shall communicate that

determination to the Probation Services Office or to that student's school—whichever made the referral. If, however, an investigation was conducted, the PSD shall provide its report to the Probation Services Office or to that student's school—whichever made the referral;

- Re-defines “truant” as meaning a student who has accumulated five unexcused absences in any school year; (currently the provision is stricter and measures the 20 unexcused absences in any 20-day period);
- Amends the Family Services Act of the Children's Code by defining a child/family in need of services in the context of a family with a child that has accumulated 10 or more unexcused absences within a school year;
- Permits the CYFD to send a written notice to the family directing the family to report to the Probation Services Office of the local judicial district to discuss family services after determining a child/family to be in need of services and
- Re-defines a family in need of court-ordered services as a family whose child, subject to compulsory school attendance, is absent from school without an authorized excuse more than 10 days in a school year (currently the provision is stricter and measures the 10 unexcused absences in a semester).

FISCAL IMPLICATIONS

The General Appropriation Act of 2006 (FY 07) appropriated \$1.0 million (sanded to \$999K) for truancy prevention/dropout prevention at the Public Education Department (PED). There is no direct appropriation to the CYFD for truancy intervention programs.

The increased administrative burden that HB-449 places on school districts and CYFD to comply with the expanded truancy monitoring and referral activities may be difficult to meet since the bill carries no appropriation for hiring additional staff.

SIGNIFICANT ISSUES

CYFD states that although identifying and managing truancy is important and could lead to keeping some youth from progressing in the Juvenile Justice System this bill would require juvenile probation and parole officers (JPPO) to take on additional clients which may have a detrimental effect on their current cases. This bill will also require the protective services division to review certain truancy cases to determine if an abuse or neglect investigation is warranted.

This bill may have a fiscal and administrative impact to CYFD's juvenile justice services division (JJS) and protective services division (PSD). The bill requires schools to report the truants to JJS and for PSD to investigate cases when the truant youth is under the age of 12. If there is an investigation and it is determined that the parents may have contributed to the child's truancy, the bill requires JJS to report that to the local District Attorney for the filing of charges. This will force both JJS and PS to take on additional responsibilities without additional resources.

The bill aligns the definition of habitually truant students in the Compulsory School Attendance Act with the definition in the Family Services Act.

On page 3, line 22 and on page 8, line 11, the proposed language allows for discretionary

enforcement of the provision, without specifying criteria: “B. Upon a determination that a child or family is in need of family services, the department may send a written notice to the family directing the family to report to the probation services office of the judicial district where the family resides to discuss family services for the child or family.” Clarification is needed relating to whether this is intended to apply to truants, whether it is OK for CYFD to not send such a notice, and whether it is mandatory that the family report as directed.

On page 8, lines 6 through 9 item “A” seems duplicative with the proposed new subsection “B”. Item “A” provides that: “The department shall, subject to the availability of resources, design and implement a referral process to assist a child or family in accessing appropriate services.”

The Bill requires a copy of a completed abuse and neglect investigation report be provided to the school that made the referral for investigation. This may pose problems with the confidentiality section of the Family in Need of Court-Ordered Services Act should probation services elect to file under this Act. The confidentiality section limits the information shared with school personnel to records concerning the student’s social or educational needs. The protective services report would need to be limited to these factors and information about other family matters would have to remain confidential.

PERFORMANCE IMPLICATIONS

The bill supports the Public Education Department’s (PED) performance measures and efforts at keeping children in school.

ADMINISTRATIVE IMPLICATIONS

If passed, the bill will have an administrative impact on children, youth and families department that the bill does not address. The expansion of referrals may significantly increase the referral rate for CYFD to process and serve as well as Protective Services increased reporting responsibilities.

CYFD would have to adopt rules to address the services it would provide to children and families in need of services should the bill’s referenced referrals be made.

PED currently is in the process of fully implementing the Student Teacher Accountability Reporting System (STARS) which will provide a dynamic means of tracking student attendance and will provide a further means for PED and CYFD to monitor student attendance patterns statewide and provide intervention in cases where the truancy problems has the potential to get out of hand. However, there will likely be a need for some agreement between the two agencies for student attendance data sharing to assure coordination of truancy intervention activities.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Related to SB481. HB 449 conflicts with SB 481 because each bill proposes to modify language differently at 22-12-9 NMSA 1978.

TECHNICAL ISSUES

Page 3, Line 18 of the bill requires an investigation be conducted by the Probation Services

Office to determine whether the habitually truant student is a neglected child or a child in a family in need of services. It is not clear if the amended language (Page 4, Lines 4 – 9) is a second investigation, an in-lieu-of investigation or requires the first investigation to be completed before the second investigation is commenced.

The analysis provided by the Attorney General's office is neither an Opinion nor an Attorney General's Advisory Opinion letter but instead is a staff analysis in response to the agency's, committee's or legislator's request.

The changes to the Compulsory School Attendance Act and the Children's Code proposed in HB-449 place a high degree of accountability on the parents/guardians of a truant child to attend school or be faced with various degrees of intervention by state agencies authorized to investigate and take action in cases of child neglect or endangerment.

The effective date of July 1, 2007 tracks with the beginning of the new fiscal year not a school year.

OTHER SUBSTANTIVE ISSUES

New Mexico like other states across the country faces a serious problem with truancy. According to the Public Education Department, the overall rate of habitual truancy for grades K-12 is as follows:

School Year 2004-05 — 35,418 habitually truant students or 12.8 percent truancy rate
School Year 2005-06 — 28,314 habitually truant students or 9.1 percent truancy rate

While the figures above show a drop of approximately 7,100 habitually truant students, the rate of 28,314 students is still significant.

In school year (SY) 2004-2005 the rate of habitually truant students in high schools was 21.49 percent or a total of 16,577 students who had ten or more unexcused absences. PED has not yet disaggregated the figures for SY 2005-2006.

When a child is truant, it typically is an indicator of something else that is happening in that child's life. In order to address the underlying issues the PED has implemented a multi-faceted approach using the \$999K appropriation. Statewide and pilot projects being funded through the appropriation include:

- School-based project piloted in 7 districts and 1 charter school
- Community Capacity Building
- Native American Project
- Community Collaborative
- Media Campaign
- Kasey Says (trained dogs in K-8 classrooms)

In addition, PED has the Family and Youth Resource Program that includes a truancy prevention component that operates in 46 schools across the state. Because of a linkage between domestic violence and truancy, PED provides a domestic violence prevention curriculum to help school

staff and students identify and deal with these problems.

In areas where the Protective Services caseloads or Juvenile Justice probation caseloads are relatively high the discretionary language of the referral provision in this bill may result in few additional referrals being made. Currently, most such referrals are made through, or in conjunction with, children's courts.

Students who are not in school are not receiving the education they need in order to advance in life, graduate, go to college, or establish a career and becoming self-sufficient adults. Students who are truant are more likely to participate in problematic behaviors, including alcohol and substance abuse, destructive sexual relations, violence, criminal acts, and other actions that can put themselves and others at high risk for injury and even death. Truant youth, by definition, are more likely to drop out of school. In addition, truancy is often linked to dysfunctional family dynamics that could benefit by improved intervention by state agency personnel either at the PED or CYFD.

A 2003 article in the School Administrator indicates that tougher state laws relating to placing more responsibility on the families for their children's truancy and subjecting these adults to criminal fines and incarceration have been passed in several states, including Alabama, Illinois, Kentucky and Michigan. The approach outlined in HB 449 provides for earlier identification and intervention of truant behavior, in addition to increasing the responsibility placed on families to stop truancy and improve school attendance. One example of a multi-agency approach as proposed in HB-449 is known as the "Keeping Kids in School" program operating in Fresno, California.

Early intervention and work with parents to address the truancy problem is crucial to keeping children in school, reducing dropout rates and improving academic performance.

ALTERNATIVES

Page 8, Lines 11 – 12 require the sending of a written notice as a condition of directing the family to report to the Probation Services Office of the local judicial district for a discussion of family services. Suggest "send" in Line 11 be stricken and replaced with "provide" so that CYFD can at its option notify the family using methods other than the US Postal Service if it chooses. The bill's language of sending the notice, that is mailing it, could for a variety of reasons result in families claiming they had not received any such notice. Even sending a notice by Certified Mail, Return Receipt Requested, would not ensure that the targeted family member actually received the desired notice.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Students will continue to be considered truant or habitually truant and to qualify for services from the CYFD under the current provisions in the Compulsory School Attendance Law and the Children's Code.