

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill Number:** CS/SB 393

**51st Legislature, 1st Session, 2013**

**Tracking Number:** .193394.2

**Short Title:** School Truancy Identification & Penalties

**Sponsor(s):** Senator Craig W. Brandt

**Analyst:** Kevin Force

**Date:** March 4, 2013

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**SENATE EDUCATION COMMITTEE SUBSTITUTE FOR SENATE BILL 393**

**Bill Summary:**

CS/SB 393 proposes to amend the *Compulsory School Attendance Law* and the *Motor Vehicle Code* in several respects. A section-by-section synopsis follows:

Sections 1 through 4 would amend the *Compulsory School Attendance Law*.

**Section 1. [Requirements for withdrawing from school; suspension or denial of driving privileges]:**

- A school-age person subject to the requirements of the attendance law shall not withdraw from school unless:
  - the student's parent provides written documentation that the student is enrolled in another public, private, or home school;
  - the school receives written documentation that the student is ill, or needs to work full-time to help support his or her family;
  - the school receives a court order from a court with jurisdiction over the student; or
  - at an exit interview:
    - the student, his or her parent, and the school principal meet to discuss the student's withdrawal;
    - the student and the parent sign an acknowledgement that withdrawal from school is likely to diminish the student's long-term employment and earning potential; and
    - the principal agrees to the withdrawal and also signs the acknowledgement.
- Beginning with school year 2014-2015, when a student in grades 8 through 12 withdraws from school without meeting the requirements noted above:
  - a school may provide the student's parent with a notice of noncompliance with the *Compulsory School Attendance Law*, containing:

- the student's name, birth date and address;
- a statement of noncompliance with the attendance law, due to withdrawal from school that does not meet requirements; and
- notice of a chance to meet with the school principal or head administrator within two weeks to:
  - ✓ commit to returning to school; or
  - ✓ provide evidence that the student is no longer subject to the *Compulsory School Attendance Law*;
- a school district or state-chartered charter school may provide the parent and the Motor Vehicle Division (MVD) certification of noncompliance with the *Compulsory School Attendance Law* within 30 days of the date when the notice of noncompliance is sent to the student's parent if the student remains noncompliant;
- upon receipt of the certification of noncompliance, the MVD must suspend or deny the issuance of an instruction permit, driver's license, or provisional license to the student; and
- after suspension or denial of driving privileges, the student may:
  - request a hearing from the district or charter school for the student to provide evidence supporting notice from the district or charter to the MVD that the student is either no longer subject to, or in compliance with, the attendance laws;
  - appeal the district's or charter school's finding of noncompliance by requesting a hearing and final decision from the Public Education Department (PED); and
  - appeal the department's final decision to the district court.

**Section 2. [Suspension or denial of driving privileges, and appeals]:**

- Beginning with school year 2014-2015, when a student in grades 8 through 12, accumulates 10 or more absences (habitual truancy):
  - a school may give the student's parent a notice of noncompliance with attendance laws;
  - a school district or state-chartered charter school may provide the parent and the MVD certification of noncompliance within 30 days of when the notice of noncompliance was sent to the parent, if the student remains noncompliant;
  - upon receipt of the certification of noncompliance, the MVD must suspend or deny the issuance of an instruction permit, driver's license, or provisional license to the student; and
  - after suspension or denial of driving privileges, the student may:
    - request a hearing from the district or charter school for the student to provide evidence supporting notice from the district or charter to the MVD that the student is either no longer subject to, or in compliance with, the attendance laws;
    - appeal the district or charter school's finding of noncompliance by requesting a hearing and final decision from PED; and
    - appeal the department's final decision to the district court.

**Section 3. [Early identification and notice and immediate interventions system, unexcused absences and withdrawal risk factors]:**

- PED must develop the identification, notice, and intervention systems for implementation by the school districts.
- After five unexcused absences, the school must meet with the student’s parents to discuss:
  - the reason for the absences;
  - immediate interventions to prevent further absences;
  - parental involvement; and
  - potential consequences of continued absence.
- For each student who demonstrates any risk factor that may lead to withdrawal, schools shall provide:
  - immediate intervention, aligned to the student’s next step plan; and
  - for the parents and the district, a record of each risk factor demonstrated by the student and the interventions taken to address it.
- “Risk factors” include:
  - multiple discipline referrals;
  - third grade reading scores below proficiency;
  - habitual truancy in grades 6 through 9;
  - failing a course in grades 6 through 9; or
  - a grade point average of 1.5 or lower in ninth grade.

**Section 4. [Unexcused absences, truancy, withdrawal and attendance policies]:**

- Each school district and charter school must provide for the early identification and notice system, and immediate intervention system, for keeping habitual truants and students with five or more unexcused absences, or other risk factors, in an educational setting, without out-of-school suspension or expulsion.
- Once per semester, each school shall report to the school district, and once per year, each school district shall report to PED, the number of students who:
  - have five or more unexcused absences;
  - have 10 or more unexcused absences;
  - withdrew from school under the provisions of this bill, with or without an exit interview;
  - stopped attending school during the semester; or
  - failed to return to school after a break.

Finally, in Section 5, SB 393 proposes a new section of the *Motor Vehicle Code* to provide MVD with authority to:

- suspend or postpone a student’s driver’s license, instructional permit, or provisional license without a preliminary hearing upon receipt of certification of noncompliance with attendance laws from a school district, state-chartered charter school or PED;

- upon receipt of certification that the student is in compliance with, or no longer subject to, the *Compulsory School Attendance Law*, grant or reinstate the student’s instructional permit, driver’s license, or provisional license; and
- adopt rules to implement these provisions.

**Fiscal Impact:**

CS/SB 393 does not contain an appropriation.

**Substantive Issues:**

According to the PED analysis of the original SB 393:

- SB 393 makes clear what is considered a legal withdrawal from school.
- The requirements for a student’s withdrawal from school, particularly the exit interview, allow an additional opportunity to avoid withdrawal, and are modeled after an Indiana program that saw a “significant reduction” in the dropout rate.
- Rio Rancho Public Schools has a similar program of early notice and immediate interventions. The district attributes its increase in graduation rates to early identification and support of students at risk for dropping out.
- Research shows that early intervention involving parents can prevent truancy and harsh consequences such as the suspension or postponement of driving privileges.
- Requiring school districts to comply with the provisions of SB 393 would allow for consistent application of the *Compulsory School Attendance Law*, which currently varies among districts.
- The provisions of SB 393 align with research from The National Dropout Prevention Center/Network that identifies 15 effective strategies that have the most positive impact on the dropout rate.<sup>1</sup> These strategies have been implemented successfully at all education levels and environments throughout the nation.
- PED would need to enhance current mechanisms or develop, in collaboration with the Juvenile Probation Office of the Judicial District and the MVD, a systematic method for referral, reporting, and monitoring the reporting of school-age persons in violation of the *Compulsory School Attendance Law*.

**Technical Issues:**

According to the Taxation and Revenue Department, the title of CS/SB 393 includes a reference to a hearing conducted by the MVD, which should be stricken, as CS/SB 393 places the responsibility for hearings regarding noncompliance with attendance laws on school districts, state-chartered charter schools, and PED.

**Background:**

The *Compulsory School Attendance Law* defines the term “habitual truant” as a student who has accumulated the equivalent of 10 or more days of unexcused absences in a school year. An “unexcused absence,” according to this law, means an absence from school or classes for which

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<sup>1</sup> See <http://www.dropoutprevention.org/effective-strategies>.

the student does not have an excuse allowed under either the law or the rules of the local school board, the governing authority of a charter school, or a private school.

During the 2012 interim, the Center for Education Policy Research (CEPR), at the University of New Mexico, testified before the Legislative Education Study Committee that more than 51,000 students in the state's elementary, middle, and secondary schools were habitual truants in school year 2011-2012. Maps presented as part of this testimony illustrated that truancy rates vary widely among schools within given districts. This testimony also provided an overview of the entities that may take action in the enforcement of penalties for habitually truant students, including:

- the school of the truant student;
- PED;
- the Probation Services Office of the Children, Youth and Families Department (CYFD);
- the district attorney; and
- law enforcement agencies.

This testimony added that truancy is a symptom of three general factors:

- individual challenges, such as low academic performance, low educational aspirations, boredom with school, drug use, or pregnancy;
- relational challenges, such as a lack of caring adults, bullying, or a lack of participation in school sports and activities; and
- structural challenges, such as weak truancy policies, institutional racism and discrimination, and low-income families.

The Department of Health provides the following background regarding truancy, its effects and the efficacy of linking truancy to driving privileges:

- Twenty-seven states have some policy connecting student attendance, behavior, and achievement to driving privileges:
  - seventeen states condition driving privileges on compliance with school attendance requirements;
  - four states combine academic performance and attendance requirements as conditions of driver's license eligibility;
  - three states will revoke a student's driving privilege based on suspensions, expulsions, and other safety infractions;
  - two states will revoke a student's driving privilege based on attendance infractions and suspensions, expulsions, or other safety infractions; and
  - one state places conditions on driving privileges based upon compliance with attendance, behavior, and academic performance.
- State policymakers should consider that, for many teenagers, driving is real currency, and promoting this privilege as a reward for attending and succeeding in school resonates with many students.
- Districts and schools may incur administrative costs in collaborating with the MVD, but still these can be relatively low-cost policies.<sup>2</sup>

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<sup>2</sup> <http://www.ecs.org/clearinghouse/60/10/6010.pdf>

- Several states have introduced No Pass No Drive laws that have been effective in reducing truancy and increased time allocated to school.<sup>3</sup>
- Truancy reduction programs that promote consistent attendance by addressing the underlying causes of truancy can also improve academic achievement while reducing problem behaviors, including substance abuse and delinquency.
- Truancy and chronic absenteeism, often stepping stones to withdrawal from school, have short- and long-term consequences on children and society, including:
  - lower grades;
  - greater student retention;
  - higher drop-out and expulsions rates; and
  - lower graduation rates from high school than students with fewer unexcused absences.
- Truancy is a risk factor for other problems, including:
  - substance abuse;
  - delinquency;
  - gang activity; and
  - serious criminal behavior.

**Committee Referrals:**

SEC/SJC

**Related Bills:**

SB 363 *Early College High Schools*

SB 382aa *Excused School Absences for Pregnancy* (Identical to HB 300a)

HB 300a *School Excused Absences for Pregnancy* (Identical to SB 382aa)

HB 456 *School Truancy Identification & Penalties* (Identical)

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<sup>3</sup> *No Pass No Drive: Education and Allocation of Time*, IZA Discussion Paper No. 6464, Barua and Vidal-Fernandez, 2012, at <http://ssrn.com/abstract=2039650>.