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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/31/12

SPONSOR O'Neil LAST UPDATED \_\_\_\_\_ HB 171

SHORT TITLE DRIVER'S LICENSES FOR CERTAIN PEOPLE SB \_\_\_\_\_

ANALYST Boerner

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	65.0	0.0	0.0	65.0	NR	TRD-MVD Operating Budget
	29.0	0.0	0.0	29.0	NR	TRD-ITD Operating Budget

(Parenthesis ( ) Indicate Expenditure Decreases)

#### **Relates to:**

**HB103** requires a social security number (SSN) from eligible driver's license (DL) applicants or the unique identifying number of the foreign national's valid passport, valid visa or other arrival departure record.

**HB244** provides for a guest driver's permit for undocumented persons.

**SB14** creates a guest worker program for certain New Mexico resident foreign nationals.

**SB235** allows a foreign national applicant without a SSN or proof of authorized presence in the United States to provide an individual tax ID number or other authorized document as an acceptable substitute.

#### **SOURCES OF INFORMATION**

LFC Files

#### Responses Received From

Department of Taxation and Revenue (TRD)

Attorney General's Office (AGO)

NM Department of Homeland Security (HSEMD)

## SUMMARY

### Synopsis of Bill

This bill amends Section 66-5-15 to require all licenses to bear the full legal name, date of birth, and sex in addition to previously required information.

The bill requires that on or after January 15, 2013, a driver's license (DL) issued to a licensee that meets federal requirements for official purposes shall contain a unique design that distinguishes it from a DL that does not comply with federal requirements.

The bill requires that on or after January 15, 2013, a DL that is not acceptable by federal agencies for official federal purposes shall state that the DL is not acceptable by federal agencies. The information indicating noncompliance with federal requirements is to be presented in the machine-readable zone and the department is directed to establish by rule the restriction code of J for this purpose.

## FISCAL IMPLICATIONS

The TRD states that implementing the bill will require a new license type to be designed and created. The cost is estimated at \$65,000 in FY12 for a contract with the current vendor (L-1).

The TRD reports that the bill will have a moderate impact for TRD-Information Technology Division (ITD). Listed are the affected programs and time estimates:

- MVD 2.0 (200 hrs)
- MVD Point of Sale (POS) (60 hrs)
- MVD Mainframe Batch (60hrs)
- Mainframe MVRO (80 hrs)
- User Acceptance Testing (180 hrs)
- Total Hours: 580
- 580 hours @\$50/hour = \$29,000

## SIGNIFICANT ISSUES

The AGO's office reports the following significant legal issues:

- The bill appears to attempt to comply with the federal REAL ID Act of 2005, 109 P.L. 13. Under the REAL ID Act, states must require proof of lawful immigrant status prior to issuance of a driver's license. See 49 USC § 30301(c)(2)(B). State DLs and ID cards issued without such proof cannot be used for official federal purposes such as travel by plane.
- The REAL ID Act allows legal immigrants without a SSN to obtain a DL. Legal immigrants must present documentation showing non-work authorized status in order to obtain a license. See 6 CFR 37.11(c)(1). A legal immigrant must show either: (1) a valid, unexpired Permanent Resident Card (Form I-551) issued by DHS or INS; (2) an unexpired employment authorization document (EAD) issued by DHS, Form I-766 or Form I-688B; or (3) a unexpired foreign passport with a valid, unexpired U.S. visa

affixed accompanied by the approved I-94 form documenting the applicant's most recent admittance into the United States. Id.

- New Mexico currently allows undocumented foreign nationals to obtain a DL. The federal Department of Homeland Security extended the deadline for states to be in compliance with the REAL ID Act. However, after the deadline, New Mexico DLs and ID cards may not be acceptable for official federal purposes. Issuing a separate class of REAL ID compliant licenses will allow eligible New Mexicans to obtain DLs and ID cards that are federally compliant.
- The bill also addresses other legal deficiencies in the current license program such as requiring DL applicants to provide their full legal name.

The HSEMD points out that:

- The bill allows for the issuance of some DLs that do not comply with the standards of the REAL ID Act. The bill also allows for the issuance of licenses to those in the country illegally through the issuance of licenses containing a restrictive code that indicates the DL is not for official federal purposes.
- The REAL ID Act requires people born on or after December 1, 1964 to obtain a REAL ID by December 1, 2014. Those born before December 1, 1964 have until December 1, 2017 to obtain their REAL ID. The REAL ID Act requires the following documentation for a valid REAL ID:
  - A photo ID, or a non-photo ID that includes full legal name and birth date.
  - Documentation of birth date.
  - Documentation of legal status and Social Security number
  - Documentation showing name and principal residence address.
  - Digital images of each identity document will be stored in each state DMV database.
- The bill will only meet REAL ID standards for what information is required to be on each DL. The part of REAL ID that is not addressed is what technology the DL is encoded with and what documentation must be presented and electronically stored before a card can be issued.

## **ADMINISTRATIVE IMPLICATIONS**

The HSEMD reports that the bill will require New Mexicans to purchase new drivers licenses if they wish to use the license for federal identification regardless of the expiration date on current driver's licenses.

## **TECHNICAL ISSUES**

The TRD states that the bill provides for a DL that meets federal requirements but does not state what those requirements are or include any provision for identification cards. To be REAL ID Act compliant, the law needs to incorporate the standards for both licenses and ID cards that meet federal requirements. If the bill is amended to set forth those requirements, the goal of allowing a noncompliant license can still be accomplished.

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The TRD also notes that the “J” restriction code is already in use (“limited to vehicles with automatic transmissions”). Page 2 line 16 should be amended to replace “the restriction code of “J” with “a unique restriction code”.

CEB/amm