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FISCAL IMPACT REPORT

ORIGINAL DATE 01/29/13

SPONSOR Pacheco LAST UPDATED _____ HB 132

SHORT TITLE Limit Issuance Of Driver's Licenses SB _____

ANALYST Trowbridge

Estimated Revenue Impact*					Recurring or Nonrecurring	Fund(s) Affected
FY13	FY14	FY15	FY16	FY17		
(\$104.1)	(\$416.5)	(\$416.5)	(\$416.5)	(\$416.5)	Recurring	Various

* In thousands of dollars. Parentheses () indicate a revenue loss.

Estimated Additional Operating Budget Impact*				Recurring or Nonrecurring	Fund(s) or Agency Affected
FY13	FY14	FY15	FY13-15		
(\$108.1)	(\$432.5)	(\$432.5)	(\$973.1)	Recurring	MVD Operating Budget

* In thousands of dollars. Parentheses () indicate a cost saving.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Attorney General's Office (AGO)

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Bill 132 amends portions of the Motor Vehicle Code, Section 66-1-1 NMSA 1978 et. seq., to provide requirements for an application for license, temporary license, provisional license, instruction permit or identification card by a foreign national and to create a limited issuance period specifically for a license or identification card issued to a foreign national.

HB 132 requires an application for a license by a foreign national to contain the unique identifying number of the foreign national's valid passport, valid visa or arrival-departure record issued by the federal government and the expiration date of the foreign national's authorized period of admission or extension of stay as demonstrated on the foreign national's valid

document provided. The bill permits the issuance of a driver's license to a foreign national applicant, that is valid for a period no longer than the duration of the foreign national's authorized period of admission or extension of stay and that the license shall state that its term is limited. HB 132 requires a foreign national's application for an identification card to contain the same information and provides for the same duration of the card.

HB 132 provides that a driver's license issued to a foreign national shall expire on the earlier of:

- 1) 30 days after the applicant's twenty-first birthday if issued prior to that birthday;
- 2) 30 days after the applicant's seventy-fifth birthday;
- 3) 30 days after the applicant's birthday on the fourth year after the effective date of the license or on the eighth year after the effective date of the license if the applicant opted for a period of eight years; or
- 4) the date of the foreign national's termination of authorized period of admission or extension of stay as demonstrated on the foreign national's valid passport, valid visa or arrival-departure record issued by the federal government.

HB 132 provides that an identification card issued to a foreign national shall expire on the earlier of:

- 1) the last day of the month of the identified person's birthday in the fourth year after the effective date of the identification card or on the eighth year after the effective date of the identification card if the applicant opted for a period of eight years; or
- 2) the date of the foreign national's termination of authorized period of admission or extension of stay as demonstrated on the foreign national's valid passport, valid visa or arrival-departure record issued by the federal government.

HB 132 amends Section 66-5-405 NMSA 1978, governing the contents of an identification card, to require the card to not just "adequately describe the registrant and bear his picture that shall show a full face or front view," but specifically to:

"...bear the full legal name, date of birth, sex, current New Mexico physical address, a full-face or front-view digital photograph of the identification card holder, a unique identification card number, a date of issuance, an expiration date, a brief description of the identification card holder and a signature of the holder..."

HB 132 amends Section 66-8-1.1 NMSA 1978, currently governing fraud in obtaining documents issued by the Motor Vehicle Division and providing a penalty, to retitle the section as "Fraud Related to the Issuance of Documents by the Division" and adding a fourth degree felony penalty for the following:

- for an applicant to knowingly or willfully provide a false or fraudulent document required under Section 66-5-9 NMSA 1978, governing applications for license, temporary license, provisional license or instruction permit;
- for a person to receive or obtain an identification card, instruction permit, driver's license or provisional license and then transfer the identification card, instruction permit, driver's license or provisional license to another person who is not lawfully entitled to issuance of that document; or
- for a person to induce or solicit another person, or conspire with another person, to commit the above-detailed fraud.

Additionally, HB 132 provides a third degree felony penalty for a department employee or private retail agent or other contractor of the division who knowingly commits fraud related to the issuance of documents by the Motor Vehicle Division.

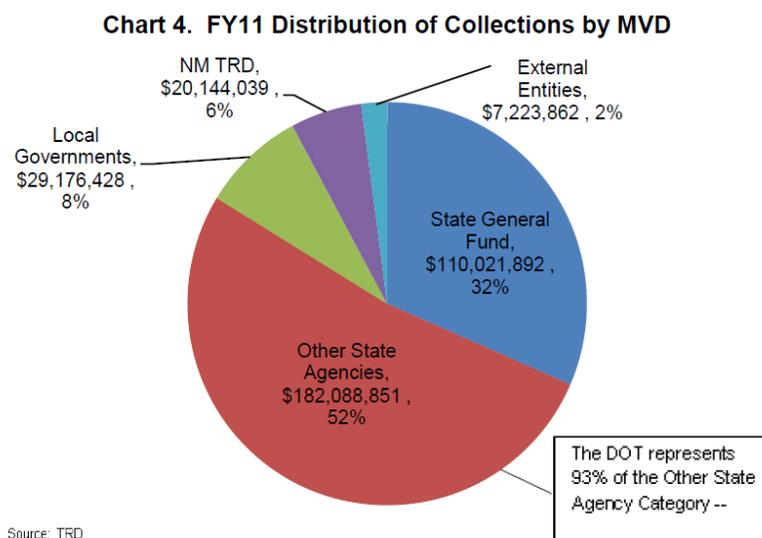
The Taxation and Revenue Department (TRD) observes that the bill removes from current law language allowing for the use of a tax identification number in lieu of a social security number. Also removed from current law is the authority for the Secretary of the Taxation and Revenue Department to establish by regulation other documents that may be accepted as a substitute for a social security number or an individual tax identification number.

The Act contains both a severability clause and an emergency clause.

FISCAL IMPLICATIONS

TRD states that distribution of specific MVD fee revenues is determined by a complex statutory formulaic system established in Section 66-6-23 (Disposition of Fees) and Section 66-6-23.1 (Formulaic Distribution).

The chart below illustrates the overall distribution of all fees collected by MVD:



Source: TRD's Report to the Legislative Finance Committee dated October 24, 2012.

The Administrative Office of the Courts (AOC) indicates that 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 commenced prosecutions. 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.

SIGNIFICANT LEGAL ISSUES

REAL ID – A LEGAL ISSUE FOR HB 132

The Attorney General’s Office (AGO) indicates that the federal REAL ID Act of 2005 (“REAL ID”) has implications for the changes proposed in HB 132. REAL ID establishes mandatory standards governing state issuance of secure driver’s licenses and identification cards. Residents of states which fail to comply with REAL ID will be unable to utilize their state-issued identification cards to board airplanes, enter federal buildings, or for a range of other “official purposes.” REAL ID Act of 2005, Pub. L. No. 109-13, 119 Stat. 231, 312 (May 11, 2005). New Mexico is currently not in compliance with REAL ID and many of the state’s provisions governing the issuance of driver’s licenses and identification cards are at odds with REAL ID.

There is currently no deadline by which states must come into compliance with REAL ID and the law is not currently in effect. Only 13 states are currently in compliance, and the Department of Homeland Security (“DHS”) has issued compliance “deferments” to the remaining states, including New Mexico. See DHS Press Release, “DHS Determines 13 States Meet REAL ID Standards,” Dec. 20, 2012. DHS expects to issue a compliance schedule in the fall of 2013. Thus, although the timeline is uncertain, REAL ID is still the law and will take effect barring action by Congress.

The changes proposed in HB 132 addressing the issuance of licenses and identification cards to foreign nationals conform to certain general standards set forth in the REAL ID Act for secure licenses. Like REAL ID, HB 132 imposes the requirement that secure licenses and identification cards be issued only to a person able to evidence lawful presence in the United States, and that such licenses and identification cards be valid only for a period that conforms to the person’s period of lawful presence in the United States. See 6 CFR Parts 37.11 and 37.21.

However, much of the minutia set forth in HB 132 is at odds with REAL ID’s secure license standards. This includes the enumeration of documents in HB 132 that is proposed to establish a person’s identity and lawful status, see 6 CFR Part 37.11, the physical requirements for the license or identification card, see 6 CFR Parts 37.15, 37.17 & 37.19, etc.

Finally, it should be noted REAL ID authorizes states to issue cards that are not compliant with the Act. Thus, states may have “tiers” of cards, based upon whether a given card is in compliance with REAL ID. Non-compliant cards must be clearly identified as such and feature a design distinctive from compliant cards.

PERFORMANCE IMPLICATIONS

The AOC notes that the courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

See “Fiscal Implications,” above.