

FIFTY-SECOND LEGISLATURE
SECOND SESSION, 2016

HB 99/a

February 12, 2016

Mr. President:

Your **FINANCE COMMITTEE**, to whom has been referred

HOUSE BILL 99, as amended

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. Strike Senate Public Affairs Committee Amendments 1 and 2.
2. On page 1, strike lines 12 through 19 and insert in lieu thereof:

"PROVIDING TWO TIERS OF DRIVING DOCUMENTS AND IDENTIFICATION CARDS; CREATING DRIVER'S LICENSES AND IDENTIFICATION CARDS THAT MEET THE REQUIREMENTS OF THE FEDERAL REAL ID ACT OF 2005; REQUIRING PROOF OF LAWFUL STATUS IN THE UNITED STATES FOR APPLICANTS TO OBTAIN DRIVER'S LICENSES OR IDENTIFICATION CARDS THAT MEET THE REQUIREMENTS OF THE FEDERAL REAL ID ACT OF 2005; CREATING DRIVING AUTHORIZATION CARDS THAT DO NOT MEET THE REQUIREMENTS OF THE FEDERAL REAL ID ACT OF 2005; LIMITING THE VALIDITY PERIOD OF CERTAIN DRIVER'S LICENSES AND IDENTIFICATION CARDS; REQUIRING A PHOTOGRAPH AND FINGERPRINTS FROM CERTAIN APPLICANTS FOR DRIVING AUTHORIZATION CARDS AND CERTAIN IDENTIFICATION CARDS; PROVIDING FOR THE EXCHANGE OF DRIVER'S LICENSES AND IDENTIFICATION CARDS; RAISING THE AGE FOR ANNUAL RENEWALS OF DRIVER'S LICENSES; INCREASING PENALTIES AND IMPOSING NEW PENALTIES."

3. Strike page 1, line 22 through page 32, line 10 and insert in lieu thereof:

"SECTION 1. Section 66-1-4.4 NMSA 1978 (being Laws 1990, Chapter 120, Section 5, as amended) is amended to read:

"66-1-4.4. DEFINITIONS.--As used in the Motor Vehicle Code:

- A. "day" means calendar day, unless otherwise provided in

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the Motor Vehicle Code;

B. "dealer", except as specifically excluded, means any person who sells or solicits or advertises the sale of new or used motor vehicles, manufactured homes or trailers subject to registration in this state; "dealer" does not include:

(1) receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under judgment, decree or order of any court;

(2) public officers while performing their duties as such officers;

(3) persons making casual sales of their own vehicles;

(4) finance companies, banks and other lending institutions making sales of repossessed vehicles; or

(5) licensed brokers under the Manufactured Housing Act who, for a fee, commission or other valuable consideration, engage in brokerage activities related to the sale, exchange or lease purchase of pre-owned manufactured homes on a site installed for a consumer;

C. "declared gross weight" means the maximum gross vehicle weight or gross combination vehicle weight at which a vehicle or combination will be operated during the registration period, as declared by the registrant for registration and fee purposes; the vehicle or combination shall have only one declared gross weight for all operating considerations;

D. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

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E. "designated accessible parking space for persons with significant mobility limitation" means any space, including an access aisle, that is marked and reserved for the parking of a passenger vehicle that carries registration plates or a parking placard with the international symbol of access issued in accordance with Section 66-3-16 NMSA 1978 and that is designated by a conspicuously posted sign bearing the international symbol of access and, if the parking space is paved, by a clearly visible depiction of this symbol painted in blue on the pavement of the space;

F. "director" means the secretary;

G. "disqualification" means a prohibition against driving a commercial motor vehicle;

H. "distinguishing number" means the number assigned by the department to a vehicle whose identifying number has been destroyed or obliterated or the number assigned by the department to a vehicle that has never had an identifying number;

I. "distributor" means a person who distributes or sells new or used motor vehicles to dealers and who is not a manufacturer;

J. "division", without further specification, "division of motor vehicles" or "motor vehicle division" means the department;

K. "driver" means every person who drives or is in actual physical control of a motor vehicle, including a motorcycle, upon a highway, who is exercising control over or steering a vehicle being towed by a motor vehicle or who operates or is in actual physical control of an off-highway motor vehicle;

L. "driver's license" means a license or a class of license issued by a state or other jurisdiction ~~[to an individual that authorizes the individual to drive a motor vehicle; and]~~ pertaining to the authorizing of persons to operate motor vehicles and that meets federal requirements to be accepted by federal

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agencies for official federal purposes;

M. "driveaway-towaway operation" means an operation in which any motor vehicle, new or used, is the item being transported when one set or more of wheels of any such motor vehicle is on the roadway during the course of transportation, whether or not the motor vehicle furnishes the motive power; and

N. "driving authorization card" means a card issued or recognized under the laws of New Mexico pertaining to the authorizing of persons to operate motor vehicles and not intended to be accepted by federal agencies for official federal purposes."

SECTION 2. Section 66-1-4.10 NMSA 1978 (being Laws 1990, Chapter 120, Section 11) is amended to read:

"66-1-4.10. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "laned roadway" means a roadway that is divided into two or more clearly marked lanes for vehicular traffic;

B. "law enforcement agency designated by the division" means the law enforcement agency indicated on the dismantler's notification form as the appropriate agency for the receipt of the appropriate copy of that form;

C. "lawful status" means the legal right to be present in the United States, as that phrase is used in the federal REAL ID Act of 2005;

~~[G.]~~ D. "license", without modification, means any license, ~~[temporary instruction]~~ permit or ~~[temporary license issued or]~~ driving authorization card recognized under the laws of New Mexico pertaining to the ~~[licensing]~~ authorizing of persons to operate motor vehicles;

~~[D.]~~ E. "lien" or "encumbrance" means every chattel

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mortgage, conditional sales contract, lease, purchase lease, sales lease, contract, security interest under the Uniform Commercial Code or other instrument in writing having the effect of a mortgage or lien or encumbrance upon, or intended to hold, the title to any vehicle in the former owner, possessor or grantor; and

[E.] F. "local authorities" means every county, municipality and any local board or body having authority to enact laws relating to traffic under the constitution and laws of this state."

SECTION 3. Section 66-5-9 NMSA 1978 (being Laws 1978, Chapter 35, Section 231, as amended) is amended to read:

"66-5-9. APPLICATION FOR LICENSE, TEMPORARY LICENSE, PROVISIONAL LICENSE, [OR] INSTRUCTION PERMIT OR DRIVING AUTHORIZATION CARD OR RENEWAL.--

A. An application for an instruction permit, provisional license, [or] driver's license or driving authorization card or a renewal of an instruction permit, provisional license, driver's license or driving authorization card shall be made upon a form furnished by the department. An application shall be accompanied by the proper fee. For permits, provisional licenses, [or] driver's licenses or driving authorization cards other than those issued pursuant to the New Mexico Commercial Driver's License Act, submission of a complete application with payment of the fee entitles the applicant to not more than three attempts to pass the examination within a period of six months from the date of application.

B. An application shall contain the [~~full name, social security number or individual tax identification number~~] applicant's full legal name; date of birth; sex; and current New Mexico residence address [~~of the applicant~~] and shall briefly describe the applicant and indicate whether the applicant has previously been licensed as a driver and, if so, when and by what state or country

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and whether any such license has ever been suspended or revoked or whether an application has ever been refused and, if so, the date of and reason for the suspension, revocation or refusal. [~~For foreign nationals applying for driver's licenses, the secretary shall accept the individual taxpayer identification number as a substitute for a social security number regardless of immigration status.~~] The secretary [~~is authorized to~~] shall establish by regulation [~~other~~] documents that may be accepted as [~~a substitute for a social security number or an individual tax identification number~~] evidence of the residency of the applicant. A person applying for or renewing a driver's license shall provide documentation required by the federal government of the applicant's identity, date of birth, social security number, if applicable, address of current residence and lawful status. For an applicant for a driver's license or a renewal of a driver's license, the department shall verify the applicant's lawful status and social security number, if applicable, through a method approved by the federal government.

C. Pursuant to the federal REAL ID Act of 2005, the secretary shall establish a written, defined exception process to allow a person to demonstrate the person's identity, age and lawful status. The process shall allow a person to use a certified letter of enrollment or a valid identification card issued by a federally recognized Indian nation, tribe or pueblo to demonstrate the person's identity or age or to demonstrate the person's lawful status, if applicable.

D. A person with lawful status may apply for a driver's license or a driving authorization card.

E. An applicant shall indicate whether the applicant is applying for a driver's license or a driving authorization card. The department shall issue a driving authorization card to an applicant who is otherwise eligible for a driver's license but who does not provide proof of lawful status and who affirmatively acknowledges that the applicant understands that a driving authorization card is not valid for federal purposes. An applicant

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who does not provide proof of lawful status shall only apply for a driving authorization card. Except as otherwise provided in the Motor Vehicle Code, the department may treat driving authorization cards as driver's licenses.

F. An application by a foreign national with lawful status for a driver's license shall contain the unique identifying number and expiration date, if applicable, of the foreign national's valid passport, valid visa, employment authorization card issued under the applicant's approved deferred action status or other arrival-departure record or document issued by the federal government that conveys lawful status. The department may issue to an eligible foreign national applicant a driver's license that is valid for a period not to exceed the duration of the applicant's lawful status; provided that if that date cannot be determined by the department and the applicant is not a legal permanent resident, the license shall expire one year after the effective date of the license.

G. An application for a driving authorization card shall include proof of the applicant's identity and age as shown by:

(1) a social security number or an individual tax identification number;

(2) a passport from the applicant's country of citizenship or an identification card, issued by the consulate of Mexico in Albuquerque, New Mexico, the consulate general of Mexico in El Paso, Texas, or such other foreign consulate with which the department has established a reliable method of verifying the authenticity of the identification card;

(3) a valid New Mexico license or identification card;

(4) a certified letter of enrollment or a valid identification card issued by a federally recognized Indian nation, tribe or pueblo; or

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(5) a document that the secretary has authorized.

~~[G.]~~ H. An applicant shall indicate whether the applicant has been convicted of driving while under the influence of intoxicating liquor or drugs in this state or in any other jurisdiction. Failure to disclose any such conviction prevents the issuance of a driver's license, driving authorization card, provisional license, temporary license or instruction permit for a period of one year if the failure to disclose is discovered by the department prior to issuance. If the nondisclosure is discovered by the department subsequent to issuance, the department shall revoke the driver's license, driving authorization card, provisional license, temporary license or instruction permit for a period of one year. Intentional and willful failure to disclose, as required in this subsection, is a misdemeanor.

~~[D.]~~ I. An applicant under eighteen years of age who is making an application for a first New Mexico driver's license or driving authorization card shall submit evidence that the applicant has:

(1) successfully completed a driver education course approved by the bureau that included a DWI prevention and education component. The bureau may accept verification of driver education course completion from another state if the driver education course substantially meets the requirements of the bureau for a course offered in New Mexico;

(2) had a provisional license for at least the twelve-month period immediately preceding the date of the application for the driver's license or driving authorization card; provided that thirty days shall be added to the twelve-month period for each adjudication or conviction of a traffic violation committed during the time the person was driving with a provisional license;

(3) complied with restrictions on that license;

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(4) not been cited for a traffic violation that is pending at the time of application; and

(5) not been adjudicated for an offense involving the use of alcohol or drugs during the twelve-month period immediately preceding the date of the application for the driver's license or driving authorization card and that there are no pending adjudications alleging an offense involving the use of alcohol or drugs at the time of application.

~~[E.]~~ J. An applicant eighteen years of age or over, but under twenty-five years of age, who is making an application to be granted a first New Mexico driver's license or driving authorization card shall submit evidence with the application that the applicant has successfully completed a bureau-approved DWI prevention and education program.

~~[F.]~~ K. An applicant twenty-five years of age or over who has been convicted of driving under the influence of intoxicating liquor or drugs and who is making an application to be granted a first New Mexico driver's license or driving authorization card shall submit evidence with the application that the applicant has successfully completed a bureau-approved DWI prevention and education program.

~~[G.]~~ L. Whenever an application is received from a person previously licensed in another jurisdiction, the department may request a copy of the driver's record from the other jurisdiction. When received, the driver's record may become a part of the driver's record in this state with the same effect as though entered on the driver's record in this state in the original instance.

~~[H.]~~ M. Whenever the department receives a request for a driver's record from another licensing jurisdiction, the record shall be forwarded without charge.

~~[I.]~~ N. This section does not apply to [~~driver's~~] licenses

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issued pursuant to the New Mexico Commercial Driver's License Act."

SECTION 4. Section 66-5-15 NMSA 1978 (being Laws 1978, Chapter 35, Section 237, as amended) is amended to read:

"66-5-15. LICENSES ISSUED TO APPLICANTS.--

A. The department shall, upon payment of the required fee, issue to every qualified applicant a [~~driver's~~] license as applied for. The license shall bear the applicant's full legal name; date of birth; sex; current New Mexico [physical or mailing] residence address; [a] full-face or front-view digital photograph; [of the license holder and] a unique license number; a date of issuance; an expiration date; a brief description of the licensee; and the signature of the licensee. A license shall not be valid unless it bears the signature of the licensee.

B. The department shall ensure that driver's licenses and driving authorization cards are distinguishable in color or design.

C. A driver's license issued to a foreign national who fails to prove that the foreign national's lawful status will not expire prior to the date on which the license applied for would expire but for the person being a foreign national shall clearly indicate on its face and in the machine readable zone that it is temporary and shall bear the word "TEMPORARY".

D. A driving authorization card shall bear the statement: "NOT FOR FEDERAL PURPOSES."."

SECTION 5. Section 66-5-19 NMSA 1978 (being Laws 1978, Chapter 35, Section 241, as amended) is amended to read:

"66-5-19. RESTRICTED LICENSES.--

A. The division, upon issuing a [~~driver's license or a provisional~~] license, may, whenever good cause appears, impose

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restrictions, including the shortening of the licensure period suitable to the licensee's driving ability with respect to the type of or special mechanical control devices required on a motor vehicle that the licensee may operate or such other restrictions applicable to the licensee as the division determines to be appropriate to ensure the safe operation of a motor vehicle by the licensee.

B. At age [~~seventy-five~~] seventy-nine and thereafter, the applicant shall renew the applicant's license on a yearly basis at no cost to the applicant.

C. The division may either issue a special restricted license or may set forth such restrictions upon the usual license form.

D. The division may issue a restricted license or a restricted provisional license for driving during daylight hours only to some visually impaired persons who fail the usual eyesight test. The health standards advisory board created pursuant to the provisions of Section 66-5-6 NMSA 1978 shall evaluate the extent of the visual impairment and the impairment's effect on the driving ability of the applicant and, based on the board's recommendations, the director may issue a restricted license under the following conditions:

- (1) the applicant has no record of moving violations;
- (2) the necessity of the license is shown to the satisfaction of the director; and
- (3) the applicant satisfies the provisions of Section 66-5-206 NMSA 1978 relating to proof of financial responsibility.

E. The division may, upon receiving satisfactory evidence of any violation of the restrictions of the license, suspend the license, but the licensee is entitled to a hearing as upon a suspension under Sections 66-5-1.1 through 66-5-47 NMSA 1978 and as

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provided in the Administrative Hearings Office Act.

F. It is a misdemeanor for any person to operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to the person."

SECTION 6. Section 66-5-21 NMSA 1978 (being Laws 1978, Chapter 35, Section 243, as amended by Laws 2010, Chapter 42, Section 2 and by Laws 2010, Chapter 70, Section 2) is amended to read:

"66-5-21. EXPIRATION OF LICENSE--LIMITED ISSUANCE PERIOD--
FOUR-YEAR ISSUANCE PERIOD--EIGHT-YEAR ISSUANCE PERIOD--RENEWAL.--

A. Except as provided in [~~Subsection B or D~~] Subsections B through I of this section, Section 66-5-19 NMSA 1978 and Section 66-5-67 NMSA 1978, all [~~driver's~~] licenses shall be issued for a period of four years, and each license shall expire thirty days after the applicant's birthday in the fourth year after the effective date of the license or shall expire thirty days after the applicant's [~~seventy-fifth~~] seventy-ninth birthday. A license issued pursuant to Section 66-5-19 NMSA 1978 shall expire thirty days after the applicant's birthday in the year in which the license expires. Each license is renewable within ninety days prior to its expiration or at an earlier date approved by the department. The fee for the license shall be as provided in Section 66-5-44 NMSA 1978. The department may provide for renewal by mail or telephonic or electronic means of a [~~driver's~~] license issued pursuant to the provisions of this subsection, pursuant to regulations adopted by the department that ensure adequate security measures to safeguard personal information that is obtained in the issuance of a [~~driver's~~] license, except the department shall not renew by mail or telephonic or electronic means a license if prohibited by federal law. The department may require an examination upon renewal of the [~~driver's~~] license.

B. At the option of an applicant, a driver's license may be issued for a period of eight years, provided that the applicant:

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(1) pays the amount required for a driver's license issued for a term of eight years;

(2) otherwise qualifies for a four-year driver's license; and

(3) will not reach the age of [~~seventy-five~~] seventy-nine during the last four years of the eight-year license period or reach the age of twenty-one during any year within the term of the license.

C. A driver's license issued pursuant to the provisions of Subsection B of this section shall expire [~~thirty days after the applicant's birthday in the eighth year~~] eight years after the effective date of the license.

D. A driver's license issued prior to an applicant's twenty-first birthday shall expire thirty days after the applicant's twenty-first birthday. A driver's license issued prior to an applicant's twenty-first birthday may be issued for a period of up to five years.

E. A driver's license issued to a foreign national shall expire on the earliest of:

(1) thirty days after the applicant's twenty-first birthday, if issued prior to the applicant's twenty-first birthday;

(2) thirty days after the applicant's seventy-ninth birthday;

(3) thirty days after the applicant's birthday in the fourth year after the effective date of the license or eight years after the effective date of the license if the applicant opted for a period of eight years pursuant to Subsection B of this section; or

(4) the expiration date of the applicant's lawful

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status; provided that if that date cannot be determined by the department and the applicant is not a legal permanent resident, the driver's license shall expire one year after the effective date of the license.

F. A driving authorization card issued to an applicant who provides proof of lawful status shall expire on the earliest of:

(1) thirty days after the applicant's twenty-first birthday, if issued prior to the applicant's twenty-first birthday;

(2) thirty days after the applicant's seventy-ninth birthday; or

(3) thirty days after the applicant's birthday in the fourth year after the effective date of the license.

G. A driving authorization card issued to an applicant who does not provide proof of lawful status shall expire on the earliest of:

(1) thirty days after the applicant's twenty-first birthday, if issued prior to the applicant's twenty-first birthday;

(2) thirty days after the applicant's seventy-ninth birthday; or

(3) two years after the effective date of the driving authorization card.

H. A driving authorization card that is valid for two years issued pursuant to Subsection G of this section shall, upon renewal and for subsequent renewals, be valid for four years.

[E.] I. The [director may] secretary shall adopt regulations providing for the proration of driver's license fees, driving authorization card fees and commercial driver's license fees

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due to shortened licensure periods permitted pursuant to Subsection A of Section 66-5-19 NMSA 1978 ~~[or]~~ and for licensure periods authorized pursuant to the provisions of this section."

SECTION 7. Section 66-5-37 NMSA 1978 (being Laws 1978, Chapter 35, Section 259, as amended) is amended to read:

"66-5-37. UNLAWFUL USE OF LICENSE.--

A. It is a misdemeanor for any person to:

~~[A.]~~ (1) display or cause or permit to be displayed or have in ~~[his]~~ the person's possession any canceled, revoked or suspended driver's license or permit ~~[or]~~, commercial driver's license or permit or driving authorization card;

~~[B.]~~ (2) lend ~~[his]~~ the person's driver's license or permit ~~[or]~~, commercial driver's license or permit or driving authorization card to any other person or knowingly permit the use of ~~[his]~~ the person's license ~~[or]~~, permit or driving authorization card by another;

(3) permit any unlawful use of the driver's license or permit, commercial driver's license or permit or driving authorization card issued to, or received by, the person;

~~[C.]~~ (4) display or represent as one's own any driver's license or permit ~~[or]~~, commercial driver's license or permit or driving authorization card not issued to ~~[him]~~ the person; or

(5) do any other act forbidden or fail to perform any other act required by Sections 66-5-1.1 through 66-5-47 NMSA 1978 or the provisions of the New Mexico Commercial Driver's License Act.

B. It is a felony for any person to:

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~~[D.]~~ (1) fail or refuse to surrender to the division upon its lawful demand any driver's license or permit, ~~[or]~~ commercial driver's license or permit ~~[which]~~ or driving authorization card that has been suspended, revoked or canceled;

~~[E. use]~~ (2) knowingly or willfully provide a false or fictitious name or document in any application for a driver's license or permit or commercial driver's license or permit or driving authorization card or knowingly make a false statement or knowingly conceal a material fact or otherwise commit a fraud in any such application;

~~[F. permit any unlawful use of the driver's license or permit or commercial driver's license or permit issued to him; or~~

~~G. do any act forbidden or fail to perform any act required by Sections 66-5-1 through 66-5-47 NMSA 1978 or the provisions of the New Mexico Commercial Driver's License Act] or~~

(3) induce or solicit another person or conspire with another person to violate this subsection."

SECTION 8. Section 66-5-47 NMSA 1978 (being Laws 1978, Chapter 35, Section 269, as amended) is amended to read:

"66-5-47. PHOTOGRAPHS ~~[EVIDENCE OF APPLICANT'S AGE].--~~~~[A.]~~ The department shall reproduce the likeness of drivers, subject to the following conditions:

~~[(1)]~~ A. photographs or other reproductions of the likeness of all persons shall ~~[show]~~ be a ~~[full-face]~~ full-face or ~~[front view]~~ front-view digital photograph; and

~~[(2)]~~ B. photographs or other reproductions of the likeness of all persons under the age of twenty-one years shall have a printed legend, indicating that the person is under twenty-one, which shall be displayed in such manner as to be easily read by any

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person inspecting the license.

~~[B. Each applicant for an initial license or a replacement license shall produce evidence of the applicant's age. Proof of an applicant's age shall be a birth certificate, certified copy of a birth certificate, a church record purporting to show the date of birth and baptism, an acknowledged copy of the church record, a valid passport or other evidence which the secretary deems sufficient. The date of birth shown on any driver's license or any instruction permit issued by the department shall coincide with the date of birth shown on the proof of applicant's age.]"~~

SECTION 9. Section 66-5-401 NMSA 1978 (being Laws 1978, Chapter 35, Section 328, as amended) is amended to read:

"66-5-401. IDENTIFICATION CARDS--APPLICATION.--

A. A person who does not have a valid New Mexico driver's license or driving authorization card may be issued an identification card by the department ~~[certified by the applicant as to true name, correct age and other identifying data as the department may require]~~. An application for an identification card or renewal of an identification card shall be made upon a form furnished by the department. An application for an identification card shall contain the applicant's full legal name; date of birth; sex; and current New Mexico residence address and shall briefly describe the applicant. The secretary shall establish by rule documents that may be accepted as evidence of the residency of the applicant. The department shall establish two distinct identification cards as provided in Section 66-5-405 NMSA 1978: an identification card that meets federal requirements to be accepted by federal agencies for official federal purposes and an identification card not intended to be accepted by federal agencies for official federal purposes. A person applying for or renewing an identification card that meets federal requirements to be accepted by federal agencies for official federal purposes shall provide documentation required by the federal government of the applicant's

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identity, date of birth, social security number, if applicable, address of current residence and lawful status. The department shall verify the applicant's lawful status and social security number, if applicable, through a method approved by the federal government. Pursuant to the federal REAL ID Act of 2005, the secretary shall establish a written, defined exception process to allow a person to demonstrate the person's identity, age and lawful status. The process shall allow a person to use a certified letter of enrollment or a valid identification card issued by a federally recognized Indian nation, tribe or pueblo to demonstrate the person's identity or age or to demonstrate the person's lawful status, if applicable. A person with lawful status may apply for an identification card that meets federal requirements to be accepted by federal agencies for official federal purposes or an identification card not intended to be accepted by federal agencies for official federal purposes. Every application for an identification card shall be signed by the applicant or the applicant's parent or guardian. The secretary may, for good cause, revoke or deny the issuance of an identification card.

B. An application by a foreign national with lawful status for an identification card that meets federal requirements to be accepted by federal agencies for official federal purposes shall contain the unique identifying number and expiration date, if applicable, of the foreign national's valid passport, valid visa, employment authorization card issued under the applicant's approved deferred action status or other arrival-departure record or document issued by the federal government that conveys lawful status. The department may issue to an eligible foreign national applicant an identification card that meets federal requirements to be accepted by federal agencies for official federal purposes that is valid for a period not to exceed the duration of the applicant's lawful status; provided that if that date cannot be determined by the department and the applicant is not a legal permanent resident, the identification card shall expire one year after the effective date of the identification card.

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C. The department shall issue an identification card not intended to be accepted by federal agencies for official federal purposes to an applicant who is otherwise eligible but who does not provide proof of lawful status and who affirmatively acknowledges that the applicant understands that an identification card not intended to be accepted by federal agencies for official federal purposes is not valid for federal purposes. An applicant who does not provide proof of lawful status shall only apply for an identification card not intended to be accepted by federal agencies for official federal purposes. For an application for an identification card not intended to be accepted by federal agencies for official federal purposes, the secretary shall accept as proof of the applicant's identity and age:

(1) a social security number or an individual tax identification number;

(2) a passport from the applicant's country of citizenship or an identification card, issued by the consulate of Mexico in Albuquerque, New Mexico, the consulate general of Mexico in El Paso, Texas, or such other foreign consulate with which the department has established a reliable method of verifying the authenticity of the identification card;

(3) a valid New Mexico license or identification card;

(4) a certified letter of enrollment or a valid identification card issued by a federally recognized Indian nation, tribe or pueblo; or

(5) a document that the secretary has authorized.

D. The secretary may adopt rules providing for the proration of fees due to shortened validity periods authorized pursuant to the provision of this section.

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~~[B.]~~ E. Within the forms prescribed by the department for identification card applications, a space shall be provided to show whether the applicant is a donor as provided in the Jonathan Spradling Revised Uniform Anatomical Gift Act. A person applying for an identification card may indicate that person's status on the space provided on the application. The donor status indicated by the applicant shall be displayed on the identification card. The form and identification card shall be signed by the donor in the presence of a witness who shall also sign the form in the donor's presence."

SECTION 10. Section 66-5-402 NMSA 1978 (being Laws 1978, Chapter 35, Section 329, as amended) is amended to read:

"66-5-402. PERSONS ELIGIBLE FOR IDENTIFICATION CARDS.--The department ~~[shall]~~ may issue an identification card only to ~~[A.]~~ a person who is a New Mexico resident and who does not have a valid New Mexico ~~[driver's]~~ license ~~[and only upon the furnishing of a birth certificate or its certified copy, a certificate of baptism a valid passport or other evidence that the department deems sufficient as documentary evidence of the age and identity of the person; or~~

~~B. a person over age sixty-five who is a New Mexico resident and who is surrendering a valid New Mexico driver's license, which license shall be sufficient documentary evidence of the age and identity of the person]."~~

SECTION 11. Section 66-5-403 NMSA 1978 (being Laws 1973, Chapter 269, Section 3, as amended by Laws 2010, Chapter 42, Section 3 and by Laws 2010, Chapter 70, Section 3) is amended to read:

"66-5-403. EXPIRATION OF IDENTIFICATION CARDS--DURATION--RENEWAL.--

A. Except as provided in ~~[Subsection B or G]~~ Subsections B through G of this section, every identification card shall be issued

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for a period not to exceed four years and shall expire on the last day of the month of the identified person's birth in the fourth year after the effective date of the identification card.

B. An identification card may be renewed within ninety days prior to its expiration or at an earlier date approved by the department. An identification card may be renewed by mail or telephonic or electronic means pursuant to regulations adopted by the department, except the department shall not renew by mail or telephonic or electronic means an identification card that meets federal requirements to be accepted by federal agencies for official federal purposes if prohibited by federal law. The regulations shall ensure adequate security measures to safeguard personal information that is obtained in the issuance of an identification card.

C. At the option of the applicant for an identification card, a card may be issued for a period of eight years, provided that the applicant pays the amount required for an identification card issued for a term of eight years. An identification card issued pursuant to the provisions of this subsection shall expire [~~on the last day of the month of the applicant's birth in the eighth year~~] eight years after the effective date of the identification card. The identification card may be renewed within ninety days prior to its expiration.

D. An identification card that meets federal requirements to be accepted by federal agencies for official federal purposes issued to a foreign national with lawful status shall expire on the earlier of:

(1) the last day of the month of the applicant's birth in the fourth year after the effective date of the identification card or eight years after the effective date of the identification card if the applicant opted for a period of eight years pursuant to Subsection C of this section; or

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(2) the expiration date of the applicant's lawful status; provided that if that date cannot be determined by the department and the applicant is not a legal permanent resident, the identification card shall expire one year after the effective date of the identification card.

E. An identification card not intended to be accepted by federal agencies for official federal purposes issued to an applicant who provides proof of lawful status shall expire on the last day of the month of the applicant's birth in the fourth year after the effective date of the identification card.

F. An identification card not intended to be accepted by federal agencies for official federal purposes issued to an applicant who does not provide proof of lawful status shall expire two years after the effective date of the identification card.

G. An identification card that is valid for two years issued pursuant to Subsection F of this section shall, upon renewal and for subsequent renewals, be valid for four years."

SECTION 12. Section 66-5-405 NMSA 1978 (being Laws 1978, Chapter 35, Section 332, as amended) is amended to read:

~~"66-5-405. CONTENTS OF CARD.--[The identification card shall adequately describe the registrant and bear his picture that shall show a full face or front view for all registrants and]~~

A. An identification card shall bear the applicant's full legal name; date of birth; sex; current New Mexico residence address; 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 the signature of the holder, and the identification card shall indicate donor status. All identification cards of persons under the age of twenty-one years shall have a printed legend indicating that the person is under twenty-one.

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[The]

B. An identification card not intended to be accepted by federal agencies for official federal purposes shall bear the [following] statement:

"STATE OF NEW MEXICO IDENTIFICATION
CARD NO. _____

This card is provided solely for the purpose of establishing that the bearer described on the card was not the holder of a New Mexico driver's license as of the date of issuance of this card. This identification card is not a license. ISSUED FOR IDENTIFICATION PURPOSES ONLY. NOT FOR FEDERAL PURPOSES."

C. An identification card that meets federal requirements to be accepted by federal agencies for official federal purposes shall be distinguishable in color or design from an identification card not intended to be accepted by federal agencies for official federal purposes and shall bear the statement:

"STATE OF NEW MEXICO IDENTIFICATION
CARD NO. _____

This card is provided for the purpose of establishing that the bearer described on the card was not the holder of a New Mexico driver's license as of the date of issuance of this card. This identification card is not a license. ISSUED FOR IDENTIFICATION PURPOSES ONLY."

D. An identification card that meets federal requirements to be accepted by federal agencies for official federal purposes issued to a foreign national with lawful status who fails to prove that the foreign national's lawful status will not expire prior to the date on which the identification card applied for would expire but for the person being a foreign national shall clearly indicate on its face and in the machine readable zone that it is temporary

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and shall bear the word "TEMPORARY".

SECTION 13. Section 66-5-409 NMSA 1978 (being Laws 1991, Chapter 160, Section 13) is amended to read:

"66-5-409. UNLAWFUL USE OF IDENTIFICATION CARD.--

A. It is a misdemeanor for any person to:

(1) use or possess an altered, forged or fictitious identification card;

(2) alter or forge an identification card or make a fictitious identification card;

(3) lend the person's identification card to any other person or to knowingly permit the use of the person's identification card by another;

(4) display or represent as one's own any identification card not issued to the person; or

(5) ~~[use]~~ make or permit any unlawful use of the identification card issued to, or received or obtained by, the person.

B. It is a felony for any person to:

(1) knowingly or willfully provide a false or fictitious name or document in any application for an identification card or knowingly make a false statement or conceal a material fact or otherwise commit a fraud in any such application; or

~~[(6) make or permit any unlawful use of the identification card issued to the person]~~

(2) induce or solicit another person, or conspire

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with another person, to violate this subsection.

[B.] C. For the purposes of this section, "identification card" means an identification card issued by the department pursuant to Section 66-5-401 or 66-5-404 NMSA 1978."

SECTION 14. Section 66-8-1.1 NMSA 1978 (being Laws 2007, Chapter 319, Section 65) is amended to read:

"66-8-1.1. FRAUD [~~IN OBTAINING DOCUMENTS ISSUED~~] RELATED TO THE ISSUANCE OF DOCUMENTS BY THE [~~DIVISION--PENALTY~~] DEPARTMENT--PENALTIES.--

A. It is a felony for a [~~person~~] department employee or private retail agent or other contractor of the department to:

(1) knowingly issue an identification card, driver's license, driving authorization card, vehicle or vessel registration or vehicle or vessel title to a person who is not lawfully entitled to issuance of that document;

(2) knowingly accept and use fraudulent documents as a basis for issuing an identification card, driver's license, driving authorization card, vehicle or vessel registration or vehicle or vessel title;

(3) knowingly alter a record of an identification card, driver's license, driving authorization card, vehicle or vessel registration or vehicle or vessel title without legal justification; or

(4) solicit or accept, directly or indirectly, anything of value with the intent to influence a decision or action on an identification card, a driver's license, a driving authorization card, a vehicle or vessel registration or a vehicle or vessel title.

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B. A person convicted of violating this section is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978."

SECTION 15. A new section of the Motor Vehicle Code is enacted to read:

"[NEW MATERIAL] PHOTOGRAPH--FINGERPRINTS.--

A. The taxation and revenue department shall take a full-face or front-view photograph and the fingerprints of an applicant for a driving authorization card or an identification card not intended to be accepted by federal agencies for official federal purposes who does not provide proof of lawful status and who does not possess a valid New Mexico license or identification card. The taxation and revenue department is authorized to submit fingerprint data to the department of public safety and obtain the criminal history record of an applicant from the department of public safety. The department of public safety is authorized to submit the fingerprint data to the federal bureau of investigation to conduct a background check of the applicant's criminal history pursuant to the federal bureau of investigation appropriation in Title 42 of Public Law 92-544.

B. An applicant is ineligible for a driving authorization card or identification card not intended to be accepted by federal agencies for official federal purposes and shall not be issued a driving authorization card or identification card not intended to be accepted by federal agencies for official federal purposes if information provided pursuant to Subsection A of this section reveals that the:

(1) applicant has an outstanding valid criminal arrest warrant; or

(2) applicant's fingerprints are associated with any name, date of birth or social security number other than those

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provided by the applicant in the application for a driving authorization card or identification card not intended to be accepted by federal agencies for official federal purposes.

C. An applicant ineligible for a driving authorization card or identification card not intended to be accepted by federal agencies for official federal purposes pursuant to Subsection B of this section shall become eligible upon submission of satisfactory evidence that the basis for ineligibility has been resolved."

SECTION 16. A new section of the Motor Vehicle Code is enacted to read:

"[NEW MATERIAL] ISSUANCE OF DOCUMENTS THAT MEET FEDERAL REQUIREMENTS TO BE ACCEPTED BY FEDERAL AGENCIES FOR OFFICIAL FEDERAL PURPOSES--REIMBURSEMENT.--

A. No later than six months from the effective date of this 2016 act, the department shall establish and begin to issue to qualified applicants licenses and identification cards that meet federal requirements to be accepted by federal agencies for official federal purposes. The department shall adopt the general design marking known as gold star pursuant to the *Department of Homeland Security REAL ID Security Plan Guidance Handbook* to implement the provisions of this subsection.

B. Provided that a person whose license or identification card expires on or after July 1, 2020 provides the required documentation and qualifies for the license or identification card issued pursuant to Subsection A of this section, the person may:

(1) exchange that person's valid New Mexico-issued license or identification card for a license or identification card issued pursuant to Subsection A of this section with an identical expiration date at no cost; or

(2) apply for a new license or identification card

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issued pursuant to Subsection A of this section.

C. The secretary shall adopt rules providing for the proration of a:

(1) refund for the remaining period that a person's license or identification card would have been valid; or

(2) credit for the remaining period that a person's license or identification card would have been valid toward the cost of a new license or identification card."".

Respectfully submitted,

John Arthur Smith, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 10 For 0 Against
Yes: 10
No: 0
Excused: None
Absent: None

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