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FISCAL IMPACT REPORT

ORIGINAL DATE 02/10/11

SPONSOR Rehm **LAST UPDATED** _____ **HB** 261

SHORT TITLE Foreign Ntl. Driver's License Expiration Date **SB** _____

ANALYST Haug

REVENUE (dollars in thousands)

Estimated Revenue Impact*					R or NR**	Fund(s) Affected
FY2011	FY2012	FY2013	FY2014	FY2015		
0	(\$292.0)	(\$330.0)	(\$398.0)	(\$503.0)	R	State Road Fund
0	(\$99.0)	(\$112.0)	(\$135.0)	(\$171.0)	R	Local Governments
0	(\$118.0)	(\$133.0)	(\$160.0)	(\$203.0)	R	State Equalization Guarantee (public schools)
0	(\$131.0)	(\$144.0)	(\$170.0)	(\$215.0)	R	TRD-MVD Operating Funds
0	(\$12.0)	(\$10.0)	(\$9.0)	(\$11.0)	R	County and Municipal MVD Agents
0	(\$652.0)	(\$729.0)	(\$872.0)	(\$1,103.0)	R	TOTAL

(Parenthesis () Indicate Revenue Decreases) ** R= Recurring NR= Non-Recurring – Table provided by TRD

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

Estimated Additional Operating Budget Impact*				R or NR**	Fund(s) or Agency Affected
FY2011	FY2012	FY2013	FY 11-13		
0	(648)	(823)	(1,471)	R	TRD-MVD Operating Budget
0	(114)	(145)	(259)	R	TRD-TFID Operating Budget
0	65	0	65	NR	TRD-MVD Operating Budget
0	54	0	54	NR	TRD-ITD Operating Budget
0	(643)	(968)	(1,611)		Total Taxation & Revenue Dept.

(Parenthesis () Indicate Expenditure Decreases) ** R= Recurring NR= Non-Recurring – Table provided by TRD

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General (AGO)

Department of Public Safety (DPS)

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of Bill

House Bill 261 would prohibit issuing a driver's license to any person who is not a citizen of the United States or who does not have valid documentation issued by the federal government

authorizing the applicant's presence in the United States. The bill creates a process for early expiration of driver's licenses (no later than December 31, 2011) previously issued to foreign nationals without federal documentation authorizing presence in the United States. Provisions are included for the surrender of existing licenses, and administrative hearings regarding the surrender of a license. The bill also creates a new "driving permit" for foreign nationals that do not provide federal documentation authorizing presence in the United States. A detailed description of the bill's provisions is available in Attachment 1.

FISCAL IMPLICATIONS

The TRD states that the Estimated Revenue Impact provided by TRD in the table above is comprised of two components, the loss of driver license revenue from current and prospective foreign nationals, and the gain in revenue associated with the proposed \$10 per year foreign national driving permit. Information regarding the prospective number of driving permits issued under the new law is particularly difficult to forecast, and the revenue impact should be viewed as only approximate. Attachment 2 provides additional information on the summary revenue estimate above.

With respect to operating cost effects noted in the table above, the TRD states that the lost revenue from driver license fees would be offset by significant operating budget savings within TRD-MVD and TRD-TFID, due to the extensive administrative procedures currently undertaken by the division in the issuing of driver licenses for persons not having a social security number. The negative numbers in the table above represent cost savings to the MVD. The administrative costs associated with the new driving permit should be about one-half of those associated with the current driver licenses. The positive number represents implementation costs of the bill (\$65 thousand for the new driving permits, and \$54 thousand for systems implementation costs). Attachment 2 provides additional information on the summary revenue estimate above.

SIGNIFICANT ISSUES

The TRD notes that:

This bill does NOT put New Mexico into compliance with the Real ID Act of 2005 (Act). The Act requires NM to only issue drivers licenses and ID cards to foreign nationals who are legally in the US. If NM decides to issue a license or ID card to a foreign national who cannot demonstrate lawful US presence, the license or ID must state that on its face. This bill only addresses drivers' licenses and does not impose a lawful U.S. presence requirement upon a foreign national applying for an identification card. Portions of Part 5 of Chapter 66, Article 5 relating to identification cards (Sections 66-5-401 through 66-5-409) probably need to be amended to attain compliance with the Real ID Act. If New Mexico is found to be noncompliant with the Act a NM-issued driver's license or ID card cannot be used for federal purposes, such as boarding a plane.

The public policy rationale behind the amendments to Section 66-5-17, (Section 3 on page 11), is unclear. The amendments provide that a person charged with an alcoholic beverage control violation cannot defend against such a charge by saying they relied upon a driving permit in selling, consuming, or possessing the alcoholic beverage. Being in the US illegally does not impact a foreign national's date of birth.

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According to the AGO, the bill simply re-instates the law as it was in 2002, but allows legal immigrants to apply for a driver's license.

RELATIONSHIP

House Bill 261 is related to House Bill 78 and Senate Bill 6 both of which also amend Section 66-5-9. House Bill 261 is also related to Senate Bill-6 which also amends Section 66-5-5.

TECHNICAL ISSUES

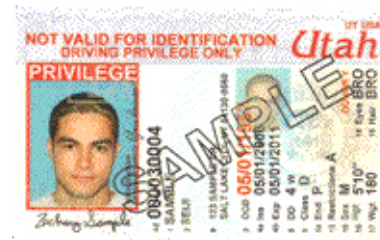
The TRD states:

Portions of Part 5 of Chapter 66, Article 5 relating to identification cards (Sections 66-5-401 through 66-5-409) probably need to be amended to attain compliance with the Real ID Act (see **Policy Issues**, on page 2). These sections of statute are not included in the bill.

To avoid confusion, strike the reference to “social security number” at the end of Subsection B of Section 2 (on page 8, line 11). The amendment to Section 66-5-9 on page 8, lines 3-9, is confusing because the statute requires a social security number or an individual tax identification number for a foreign national or a substitute for the social security number or tax ID number.

OTHER SUBSTANTIVE ISSUES

- The requirement that police officers collect foreign national licenses and mail them in to MVD with an explanation will be logistically difficult for the officers and (unless funding is available for additional staff) will likely result in major processing backlogs at MVD.
- Section 5 (A) and (B) of the bill would require knowledge by MVD of the foreign national licensee's legal-presence expiration date if such documentation was provided at time of application for the license. In fact very few foreign national applicants provide such documents, as they are not currently required, and it would be extremely time consuming for MVD to retrieve any such documents that were provided from the electronic or microfilm record. It would be far more practical to have all foreign national licenses expire on a set schedule.
- Section 5 (E) of the bill would require issuance of a new “driving permit” to a foreign national who does not have valid legal-presence documentation. The cost for the design of the new permit, assuming something similar to Utah's “driving privilege card” described at <http://publicsafety.utah.gov/dld/drivingprivilegecard.html> and shown here is estimated to be \$65,000.
- Section 5 (H) of the bill would require the department to refund to the foreign national the excess if any of the amount paid for a driver's license that is in excess of the cost of issuing the new driving permit. It is not clear how the cost of issuing the new permit would be determined. In the absence of a specific appropriation for this purpose, it is also not clear what the source



would be of the funds required for such refunds.

- Section 5 (K) of the bill would require the department to notify affected foreign nationals of the expiration of their licenses pursuant to this section and the opportunity to surrender the license and receive a driving permit. Again, in the absence of a specific appropriation or additional staff resources for this purpose, it is unlikely that the agency could, as a practical matter, comply with this requirement.

GH/mew

House Bill 261 – Attachment 1

Description– Detailed Discussion: This bill would amend Section 66-5-5 NMSA 1978 to prohibit the Motor Vehicle Division, except as provided in Section 5 of the bill, from issuing a driver's license under the Motor Vehicle Code to any person who is not a citizen of the United States and who does not have valid documentation issued by the federal government authorizing the applicant's presence in the United States. The bill would amend Section 66-5-9 to direct the secretary to accept the individual taxpayer identification number as a substitute for a social security number for an applicant who is a foreign national who is not a citizen of the United States and who has valid documentation issued by the federal government authorizing the applicant's presence in the United States. Except as provided by Section 5 of this bill, Section 66-5-9 would also be amended to make foreign nationals who do not have valid documentation issued by the federal government ineligible for a driver's license or permit.

Section 5 of this bill would enact a new section of the Motor Vehicle Code. The new section would:

- A. Set the expiration of a driver's license issued or renewed to a foreign national who provided with the application valid documentation issued by the federal government authorizing the foreign national's presence in the United States as the date of the expiration of that person's documentation authorizing presence in the United States, notwithstanding a later expiration date printed on the driver's license.
- B. Set the expiration of a driver's license issued or renewed to a foreign national who did not provide with the application valid documentation issued by the federal government authorizing that person's presence in the United States as no later than December 31, 2011, notwithstanding a later expiration date printed on the driver's license.
- C. Direct the Department to identify, through its records, which of the currently issued driver's licenses are those described in A and B above. The Department would be required to devise a means of identifying those driver's licenses to law enforcement officers requesting that information. After December 31, 2011, when a law enforcement officer enforcing a provision of the Motor Vehicle Code encounters a person using a driver's license that expired as described in A or B above, that person will be in violation of Section 66-5-2 and must surrender the expired driver's license to the officer. The officer must inform the person of the availability of a driving permit described in F below and send the expired driver's license to the Department with a statement summarizing the circumstances of the surrender of it.
- D. Direct the Department to issue at no further cost to a foreign national whose driver's license expires as described in A or B above a driving permit valid until December 31, 2012. The foreign national may surrender the license to the Department on or before the expiration date.
- E. Allow a foreign national, subject to A and B above, who did not surrender a driver's license on or before December 31, 2011, to apply for a driving permit as described in the paragraph below.
- F. Beginning July 1, 2011, require a foreign national who is not a citizen of the United States and does not have valid documentation issued by the federal

House Bill 261 – Attachment 1

- government authorizing the person's presence in the United States, but who otherwise meets all of the requirements in the Motor Vehicle Code for the application and issuance of a driver's license, to be issued a driving permit subject in the same manner as a driver's license to the Motor Vehicle Code. The driving permit would be issued for one year from the date of issuance, for a fee of ten dollars, plus other fees charged for the issuance of a driver's license. The driving permit would be renewable annually for a fee of ten dollars, plus other fees charged for the issuance of a driver's license. The Department would determine a unique form for the driving permit, to include a conspicuously displayed statement to the effect that the driving permit only provides driving privileges and is not evidence of personal identification in New Mexico or legal presence in the United States.
- G. Direct the department to refund the amount paid by a foreign national for a driver's license that expires as described in A or B above that is in excess of the cost of issuing a driving permit described in F above.
 - H. Require the Department to send, no later than July 31, 2011, a written notice to the last known address of a foreign national whose driver's license the Department has identified as subject to expiration described in A or B above. The notice would be required to inform the foreign national of the opportunity to surrender the license and receive a driving permit as described in F above. After July 31, 2011, and until December 31, 2011, the Department would have to continue sending such notices to foreign nationals as they are identified as having driver's licenses subject to expiration as described in A or B.
 - I. Direct the Department to conduct a hearing within 20 days of receiving a request from a foreign national required to surrender a driver's license under the provisions of this bill.

The bill also would amend Section 66-5-17 to state that, "A driving permit issued pursuant to Section 5 of this 2011 act provides for driving privileges only and shall not be used or accepted as proof of personal identification or legal presence in the United States."

House Bill 261 – Attachment 2

Estimated Revenue Impact – Detailed Discussion:

The number of 4-year drivers' licenses (DLs) issued to individuals without a Social Security number (SSN) has remained level at approximately 4,000 per year. However, the number of 8-year DLs issued to individuals with no SSN increased by 20% from calendar year 2008 to 2009 and by and 34% from 2009 to 2010. The numbers below are current for calendar years 2009 and 2010 and assume an average 27% annual increase in 8-year DLs going forward to fiscal years 2012 to 2015. The first increase (from calendar year 2010 to FY 2012) is 40% to reflect the extra half year from calendar 2010 to FY2012.

year	4-yr DLs issued	cost per DL	Total	8-yr DLs issued	cost per DL	Total	total 4yr + 8yr DLs
2008	4,069			13,059			
2009	3,969			15,611			
2010	3,933			20,894			
FY2012	4,000	18	72,000	29,252	34	994,554	1,066,554
FY2013	4,000	18	72,000	37,150	34	1,263,084	1,335,084
FY2014	4,000	18	72,000	47,180	34	1,604,117	1,676,117
FY2015	4,000	18	72,000	59,918	34	2,037,228	2,109,228

Assuming a 95% reduction (from otherwise projected figures) in new foreign national licenses:

year	4-yr DLs issued	cost per DL	Total	8-yr DLs issued	cost per DL	Total	Total 4yr + 8yr DLs
FY2012	-3,800	18	-68,400	-27,789	34	-944,827	- 1,013,227
FY2013	-3,800	18	-68,400	-35,292	34	- 1,199,930	- 1,268,330
FY2014	-3,800	18	-68,400	-44,821	34	- 1,523,911	- 1,592,311
FY2015	-3,800	18	-68,400	-56,923	34	- 1,935,367	- 2,003,767

This 4-year + 8-year total is the annual estimated general fund revenue decrease if DLs are no longer issued to any but a relatively few individuals without SSNs.

Some of that lost revenue will be replaced by new revenue from issuance of the new 1-year driving permits authorized by HB-261. Because the new permit will have no legal value other than as a permit to drive, it is assumed that a reduced and level number of 20,000 new permits will be issued each year, with half of those renewing from year to year at a price per permit of \$18.00 (the \$10 statutory permit fee + \$3.00 administrative fee + \$3 EDL fee + \$3 driver safety fee).

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year	Permits issued or renewed	cost per permit	Total
FY2012	+20,000	18	+360,000
FY2013	+30,000	18	+540,000
FY2014	+40,000	18	+720,000
FY2015	+50,000	18	+900,000

Of the driving permit fees of \$18 for an annual license, the revenue distributions are as follows:

- \$10 driving permit fee: \$6 to the issuing county-municipal office; 74.65% of balance to the state road fund; 25.35% of balance to local government.
- \$2 Administrative fee: for each license issued by a county-municipal office, \$1.50 to the county or municipality; for each license issued by a state office, \$1.25 to TRD-MVD. With the balance divided 74.65% to the state road fund and 25.35% to local government.
- \$3 EDL fee to TRD-MVD for licensing system
- \$3 driver safety fee to state equalization guarantee fund for schools.

Estimated Operating Budget Impact Detail

The overriding administrative/compliance issue for TRD-MVD is that the agency is now in process of designing and implementing a new drivers system (“Milagro”). Any change as substantial as that contemplated by this bill could not, as a practical matter, be implemented prior to the effective date of Milagro, currently scheduled for August or September 2011.

Implementation of this bill will also have a high impact for TRD-ITD, including MVD 2.0 (600 hrs), MVD Mainframe Batch (200 hrs), User Acceptance Testing (160 hrs), Developing and Sending Correspondence (120 hrs), for a total of 1,080 hours @\$50/hour = \$54,000

Due to time and resource constraints, the July 1, 2011 deadline will be difficult to meet. Since the new MVD Milagro System is scheduled to be in production by Fall of 2011, the Department requests that the effective date be changed to January 1, 2012.

Administrative Cost Savings: As detailed below, based on reports from the individual units, current operating budget cost for issuance of foreign national licenses includes:

- MVD Call Center staffing, including scheduling of foreign national appointments and responding to questions from foreign national applicants, annual: \$211,739.
- MVD field office staff processing foreign national applications, estimated at 5% of the 357 current state field office FTEs x \$40,000 per FTE = annual: \$714,000
- Total annual MVD: \$925,739
- Adjusted upward (consistent with increasing assumed numbers of foreign national licenses issued) by 40% for FY12 = \$1,296,035, and by an additional 27% for FY13 = \$1,645,964.

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- TFID staff reviewing all foreign national applications, annual: \$74,914.
- TFID staff pursuing specific fraudulent foreign national applications, annual: \$87,644.
- Total annual TFID: \$162,558
- Adjusted upward by 40% for FY12 = \$227,581, and by an additional 27% for FY13 = 289,028.

Without any method for predicting the number of foreign national permit replacement and new applications, it is difficult to predict the offset to lost revenue from operating budget savings. For this analysis, it is assumed that operating budget savings will equal one-half of the current cost of issuing foreign national licenses.