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FISCAL IMPACT REPORT

ORIGINAL DATE 02/17/11

SPONSOR O'Neill LAST UPDATED _____ HB 346

SHORT TITLE Foreign Ntl. Driver's License Requirements SB _____

ANALYST Haug

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY11 | FY12 | FY13 | 3 Year Total Cost | Recurring or Non-Rec | Fund Affected |
|--------------|------|------|------|----------------------|-------------------------|------------------|
| Total | | NFI | NFI | | | |

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)
Attorney General (AGO)

SUMMARY

Synopsis of Bill

House Bill 346 would amend the Motor Vehicle Code to require the following additional information when an individual is applying for a driver's license:

- (1) one proof of identify, the requirement of which shall be satisfied by: (a) a birth certificate, either an original or a certified copy of a foreign birth certificate with a notarized English translation; or (b) a form of photo identification, the requirement of which shall be satisfied by: 1) a driver's license from another state; or 2) a passport or identification card from the applicant's country of citizenship, the issuance of which can be verified by contact with the issuing authority;
- (2) two independent forms of proof of the applicant's New Mexico residency, the requirement of which shall be satisfied by any two of the following: (a) a utility bill; (b) a bank statement; (c) a property tax bill; (d) a rental agreement; or (e) another document authorized by the secretary that shows the applicant's address; and
- (3) a declaration under penalty of perjury made by the applicant that all documents provided by the applicant with the application are genuine and accurate.

The bill also provides that if the documents required above are not genuine and accurate, or if the applicant receives a driver's license and then transfers it to another person, the person is guilty of a fourth degree felony.

FISCAL IMPLICATIONS

House Bill 346 contains no appropriation and TRD reports no fiscal implications.

SIGNIFICANT ISSUES

TRD notes the bill incorporates documents and a process MVD already has in place through regulations. MVD would need to amend that regulation to comply with this bill. As the bill still allows New Mexico to issue licenses to illegal immigrants, MVD will not be in compliance with the Real ID Act of 2005. Noncompliance means that a New Mexico issued driver's license or ID card cannot be used for federal purposes for example, it could not be used as identification to board an airplane.

According to the AGO significant legal issues include:

1. Whether the Bill merely confirms the constitutional limits on what State and local law enforcement officials may do in immigration matters, on the basis that the regulation of immigration issues is a matter that belongs exclusively in the province of the federal government.
2. Other significant issues raise policy as opposed to legal questions, e.g., whether the Bill will have a chilling effect on those seeking a driver's license and thus unnecessarily impedes State and local law enforcement of motor vehicle regulation.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill conflicts with House Bill 78, House Bill 261, Senate Bill 9, and Senate Bill 345 as all would amend Section 66-5-9.

TECHNICAL ISSUES

The AGO states:

It is unclear whether the requirements under Section 1(C) are meant: (a) just foreign nationals? or (b) all drivers? If the former, then perhaps the last two sentences of Section 1(B) should be broken out and Section 1(C) should be a subsection. Otherwise, as presently drafted, a US Citizen who is eighteen year old may have to get a Passport and borrow his father's utility bill and property tax bill to apply for a driver's license.

TRD notes the title of this bill is misleading, as the added requirements apply to all driver license applicants, not just foreign nationals. (See page 2, line 25, "the applicant shall also present")

GH/bym