



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

	<b>FY13</b>	<b>FY14</b>	<b>FY15</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

### **SECTION III: NARRATIVE**

This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Opinion Letter. This is a staff analysis in response to the agency's committee's or legislator's request.

### **BILL SUMMARY**

Summary Synopsis: HB 132 amends several provisions of the Motor Vehicle Code to change the requirements for licensure for foreign nationals. In particular, HB 132 proposes to amend Section 66-5-9 of the Motor Vehicle Code, which currently allows a foreign national applying for a driver's license to submit his/her individual taxpayer identification number as a substitute for the person's social security number regardless of the person's immigration status. Under the proposed amendment to Section 66-5-9, foreign nationals would no longer be able to apply for a driver's license using their individual taxpayer identification number. Instead, foreign nationals would be required to submit an application with a "unique identifying number." This number would contain the person's valid passport number, valid visa number, or arrival-departure record as issued by the federal government, and the expiration date of the person's authorized period of stay.

HB 132 would also amend Section 66-5-401 of the Motor Vehicle Code, which addresses the requirements for the issuance of an identification card. The amendment would require an applicant to provide his/her (1) full legal name, (2) social security number (unless the person is ineligible for a social security number), (3) date of birth, (4) sex, (5) and New Mexico physical address. Under the proposed amendment to Section 66-5-401, a foreign national applying for an identification card would be required to submit an application with a "unique identifying number." This number would contain the person's valid passport number, valid visa number, or arrival-departure record as issued by the federal government, and the expiration date of the person's authorized period of stay. Furthermore, the identification card would only be valid for the duration of the foreign national's authorized stay.

HB 132 would also amend Section 66-5-405 of the Motor Vehicle Code to add additional requirements for what is to be included on the identification card. At this time, an identification card must describe the registrant and bear his/her picture and donor status. The amendment would require that the identification card include the following information: (1) the person's full legal name, (2) date of birth, (3) sex, (4) current New Mexico physical address, (5) a full-face or front-view digital photograph of the card holder, (6) the date of issuance, (7) an expiration date, (8) a brief description of the card holder, (9) a signature, (10) and donor status of the card holder.

HB 132 would also amend Section 66-8-1.1 of the Motor Vehicle Code that to make it a third-degree felony for an applicant to: (1) knowingly or willfully provide a false or fraudulent document; (2) transfer a lawfully obtained driver's license or identification card to another person who is not lawfully entitled to the document; (3) induce, solicit, or conspire with someone to violate the provisions of Section 66-8-1.1

## **FISCAL IMPLICATIONS WITH ENACTING THIS BILL:**

N/A

## **SIGNIFICANT LEGAL ISSUES**

### REAL ID – A LEGAL ISSUE FOR HB 132

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 WITH ENACTING THIS BILL**

N/A

## **ADMINISTRATIVE IMPLICATIONS WITH ENACTING THIS BILL**

N/A

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP WITH BILLS INTRODUCED THIS SESSION**

**TECHNICAL ISSUES OR DRAFTING ERROR**

N/A

**OTHER SUBSTANTIVE LEGAL ISSUES**

**ALTERNATIVES TO ENACTING THIS BILL**

N/A

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status Quo

**AMENDMENTS NEEDED TO IMPROVE THIS BILL**

N/A