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FISCAL IMPACT REPORT

ORIGINAL DATE 01/28/15
 SPONSOR Rehm LAST UPDATED 02/03/15 HB 79/aHSCAC
 SHORT TITLE Driver's Licenses to Foreign Nationals SB _____
 ANALYST Malone / Sanogo

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		
(\$104.1)	(\$416.5)	(\$416.5)	Recurring	See Distribution Chart Below

(Parenthesis () Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$108.1	\$0.0	\$0.0	\$108.1	Nonrecurring	TRD-MVD Budget
	\$0.0	(\$432.5)	(\$432.5)	(\$865.0)	Recurring	TRD-MVD Budget

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Department of Public Safety (DPS)

Responses Not Received From

Taxation and Revenue Department (TRD)

SUMMARY

Synopsis of HSCAC Amendment

The House Safety and Civil Affair Committee (HSCAC) removes the emergency clause of HB 79. The amendment also provides that the process of cancellation of a person's state-issued license or ID must be subject to "due process protections."

Synopsis of Bill

HB 79 amends several sections within the Motor Vehicle Code, (Section 66, NMSA 1978), to limit the issuance of driver's licenses and ID cards to foreign nationals with "lawful status," as defined in the bill. The bill also provides for mandatory cancellation of driver's licenses issued to persons without social security numbers.

Under HB 79, applications by foreign nationals for driver's licenses and ID cards must include a unique identifying number or other documents issued by the federal government that convey lawful status and the expiration date, if one exists, of the foreign national's authorized period of admission or extension of stay.

HB 79 details the expiration of driver's licenses and ID cards issued to foreign nationals with lawful status, and clarifies the scope and nature of criminal penalties related to the issuance of driver's licenses and ID cards.

HB 79 enacts a new statutory section within the Motor Vehicle Code, requiring the department to cancel by December 31, 2015 all licenses currently held by individuals who did not provide a social security number as part of their application, unless the individual submits a social security number or submits a new application.

The new statutory section describes the required procedures to be followed by the TRD in canceling driver's licenses issued to persons without social security numbers. The bill provides that upon cancellation of a person's permit or license, the department is required to reimburse to the person the amount of the fee paid prorated for the remaining period that the permit or license would have been valid but for its cancellation.

HB 79 requires the Secretary of the TRD to promulgate rules necessary to implement and enforce the provisions of the Act. HB 79 contains a severability clause and an emergency clause.

FISCAL IMPLICATIONS

Although the TRD did not submit an FIR for HB 79, TRD’s analysis of significantly similar legislation in 2013 (HB 132, HB 161) demonstrated that the fiscal impact to the MVD in FY 13 for full compliance is determined as follows:

Budget impact:		
Estimated annual FNDL transactions	15,000	
MVD overall cost per transaction		\$ 13.50
FNDL overhead per TFID	\$ 230,000	
FNDL overhead per transaction		\$ 15.33
Average FNDL cost per transaction		\$ 28.83
		\$ 432,450 Annual cost
		\$ 865,000 3-year cost

Revenue impact:	Average Cost	Estimated Number	Total Cost/Yr
1st time FNDLs	30.78	12,710	391,220
1st time Provisionals	18.00	491	8,840
Permits	7.00	514	3,600
IDs	10.00	1,285	12,850
Total		15,000	\$ 416,510

SIGNIFICANT ISSUES

According to the AOC, the TRD, in analyzing the substantially similar HB 161, introduced in 2013, noted that the bill did not appropriate funds to allow the department to reimburse those whose permit or license is canceled. TRD also noted that there is no provision for cancellation of current ID cards issued to individuals without social security numbers.

There is a question whether HB 79’s mandatory cancellation of licenses and permits granted to applicants who did not have a social security number implicates the due process rights of license and permit holders, as the bill does not provide for an opportunity for a hearing before cancellation, but rather requires the department to provide written notice of pending cancellation if a person’s social security number or new application is not timely submitted. See Maso v. New Mexico Taxation and Revenue Dept., 136 N.M. 161, 96 P.3d 286 (2004) (noting that “due process requires notice and an opportunity for a hearing before the State can suspend or revoke a person’s driver’s license.”)

On November 20, 2014, President Obama announced forthcoming modifications to immigration policy, some of which may go into effect as soon as February 2015. One category of reform involves deferred action expansion, including the Deferred Action for Parental Accountability

(DAPA) program that will provide protection from deportation and a work permit to certain parents of U.S. citizens and lawful permanent residents who have lived in the U.S. since January 1, 2010. In defining “lawful status,” HB 79 includes a person who has “approved deferred action status,” thus leaving open the opportunity to obtain a driver’s license for those whose approved deferred action status is achieved through DAPA or otherwise, rather than restricting deferred action status to that granted through Deferred Action for Childhood Arrivals (DACA), as is done in HB 32. (See, for example, <http://www.adminrelief.org/about/>, for additional information on administrative relief.)

PERFORMANCE IMPLICATIONS

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

CONFLICT

Conflicts w/ HB 32 (also amending and enacting statutes within the Motor Vehicle Code governing the issuance of driver’s licenses and ID cards to foreign nationals).

CEM/AIS/aml/je/bb