

Statement of Senator John E. Sununu
“Understanding the Realities of REAL ID:
A Review of Efforts to Secure Drivers’ Licenses and Identification cards”
Committee on Homeland Security and Governmental Affairs
Subcommittee on Oversight of Government Management,
the Federal Workforce, and the District of Columbia

Nearly two years ago, the REAL ID Act was inserted into an emergency spending bill without holding a single hearing or a substantive debate on the Senate floor. At that time, a number of my Senate colleagues and I sent a letter to then Senate Majority Leader Bill Frist voicing strong opposition to its inclusion. It was and still is my position this legislation was too significant to be included as an extraneous “rider” on a spending bill and it needed to be debated before the Senate over a period of several weeks. For that reason, I commend Senator Akaka for convening this Subcommittee hearing – albeit two years too late – to review the REAL ID Act and to carefully consider ways to improve the security and eligibility standards for drivers’ licenses in a manner that does not require a National ID or federal data base to track all drivers.

This Committee appropriately and completely addressed the concerns first outlined by the 9/11 Commission’s report to Congress regarding terrorists use of falsely obtained forms of identification to access sensitive security areas. The Commission recommended, “The Federal Government should set standards for the issuance of...sources of identification, such as drivers’ licenses.” (pg. 390) During the summer and fall of 2004, I worked with many of the current members of this committee to craft and pass legislation that included a collaborative process for developing minimum standards for drivers’ licenses, such as name, address, phone and signature. This bipartisan legislation – The Intelligence Reform and Terrorist Prevention Act of 2004 (IRTPA) – subsequently passed both Houses of Congress and was signed into law by President Bush in December of 2004.

The IRTPA was mindful of States’ rights through the inclusion of governors, State legislators and motor vehicle administrators in the negotiated rule making process. Equally important, it avoided the creation of a national ID, massive databases and billions of dollars in unfunded mandates. As we all know, this common-sense solution to a legitimate problem was eliminated and replaced by an unnecessary, unfunded, and unlikely to make you safer federal mandate: REAL ID.

States understand this and have started to take action. Across the country, State Legislatures are introducing, debating and, in some cases, passing legislation outlawing the Federal Government implementing REAL ID. In this instance, the Senate needs to follow the example being set by the States.

Most recently, the Department of Homeland Security (DHS) released a notice of proposed rulemaking. Included in these regulations is an agreement to give States a two year extension to implement new standards, as well as, the understanding that DHS will bring States, technology experts, and privacy advocates back to the table to ensure these

standards are crafted in a way that respects States' rights and minimizes costs. It is important to note this would not have been possible without the efforts of Senator Collins and others who recognize the unreasonable burden REAL ID places on the States. Although this agreement is far superior to immediate implementation of REAL ID, more must be done to protect taxpayers, States' rights, and the privacy of all Americans.

That is why Senator Akaka and I have reintroduced the "Identification Security Enhancement Act." Our legislation would repeal Title II of the REAL ID Act and replace it with the negotiated rulemaking process originally passed as part of the Intelligence Reform and Terrorist Prevention Act of 2004. These provisions would enhance privacy protections by ensuring procedures and requirements are in place to protect civil liberties, as well as, privacy and constitutional rights. I look forward to continuing my efforts to combat this unnecessary, unfunded mandate with Senator Akaka and my fellow colleagues on the Homeland Security and Government Affairs Committee.