



NATIONAL CONFERENCE *of* STATE LEGISLATURES

The Forum for America's Ideas

TESTIMONY OF

SENATOR LETICIA VAN DE PUTTE
TEXAS LEGISLATURE

ON BEHALF OF THE

NATIONAL CONFERENCE OF STATE LEGISLATURES

REGARDING

**Understanding the Realities of Real ID:
A Review of Efforts to Secure Drivers' Licenses and Identification Cards**

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL
WORKFORCE, AND THE DISTRICT OF COLUMBIA,
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS,
UNITED STATES SENATE

MARCH 26, 2007

Chairman Akaka, Ranking Member Voinovich and distinguished members of the Senate Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, I am Leticia Van de Putte, President of the National Conference of State Legislatures (NCSL) and a member of the Texas State Senate. I appear before you today on behalf of NCSL, a bi-partisan organization representing the 50 state legislatures and the legislatures of our nation's commonwealths, territories, possessions and the District of Columbia.

Mr. Chairman, I would like to take this opportunity to thank you for your leadership on this important issue, not just today with this hearing, but with your introduction of legislation in both the 109th and 110th Congresses to fix the Real ID Act. It is imperative that this hearing be the first step in a process that takes us down the road to successful, cost-effective implementation of the act. Legislators across the country share the goal of improving the integrity and security of driver's licenses and identification cards. We want to make sure it is done right. In order to do this, we need the necessary systems, time, flexibility and funds.

Mr. Chairman, as you know, NCSL will call for the repeal of the act if the recommendations made in the September 2006 report—*The Real ID Act: National Impact Analysis*, issued by NCSL, the National Governors Association and the American Association of Motor Vehicle Administrators—are not implemented and the mandate fully funded by December 31, 2007. Mr. Chairman, I request that a copy of this report and the NCSL policy—*Funds in the FY 2008 Budget Resolution for Implementation of the Real ID*—be submitted for the record to accompany my testimony.

NCSL would like to acknowledge that the draft regulations released earlier this month by the Department of Homeland Security (DHS) incorporate a number of recommendations for implementation made in the September 2006 report. For example, the draft regulations provide states important flexibility through the self-certification process. They allow states to develop waiver and exceptions processes, define which categories of department of motor vehicle (DMV) employees are subject to background checks, and potentially determine the physical security requirements of the DMV facilities. We hope that the final regulations maintain this flexibility.

The draft regulations, however, do not address several of the major recommendations—or, more accurately, solutions—that serve to ensure successful, cost-effective implementation of the act. These solutions would:

- Ensure that verification systems are available nationally;
- Allow states to adopt up to a 10-year progressive reenrollment process;
- Exempt certain populations from the Real ID process; and
- Provide the necessary federal funds.

Solution 1: Verification Systems Must be Available on a National Level

The draft regulations contemplate that states will need to have access to at least five national databases in order to electronically verify the validity of required identification documents. However, it appears that a number of these systems will still not be available nationally by the May 11, 2008 deadline. For example, it was recently reported that because \$3 million was not made available by January 2007, the Electronic Verification and Vital Events (EVVE) system will not be ready for all 50 states to electronically verify birth certificates by the May 11, 2008 deadline (CQ Homeland Security, March 15, 2007).

It is critical that states not be required to electronically verify the validity of identification documents with the issuing agency until the necessary verification systems have been developed, tested and made available nationwide. Although the draft regulations provide states the necessary flexibility to adapt should certain systems not be available by the May 11, 2008 deadline, successful implementation of the act, within such a limited timeframe, depends on the availability of all the systems.

I do not believe it would be in line with the spirit of the law for states to begin issuing Real ID compliant cards without actually having electronically verified the validity of the identity documents an individual presents. We will have spent billions of dollars to have a “pretty” new card, but will have done nothing to actually improve identity security.

Because it is unlikely that a number of the systems will be available nationally by May 11, 2008, it is critical that the May 11, 2008 deadline be moved for all states to a future date when the verification systems are available on a national level.

Solution 2: 10-year Progressive Reenrollment Process

The final regulations or legislative modifications need to allow states to adopt up to a 10-year progressive reenrollment process.

Under the draft regulations, states will need to reenroll 245 million driver's licenses and identification cards by 2013. According to the NCSL, NGA and AAMVA document I referenced earlier, a five-year reenrollment period would cost states at least \$8.4 billion. This is due to the fact that all 245 million existing card holders will have to return in person to their DMV as if they were first time applicants, thereby increasing transaction times. In addition, under the draft regulations, states that receive an extension of the May 11, 2008 deadline could have less than 3.5 years to reenroll their existing cards, which would increase the cost even further in those states.

A 10-year progressive reenrollment process would provide states the ability to manage enrollment over a greater length of time, meet the objectives of the act, reduce the fiscal effect on states and minimize service disruptions for customers. It also would allow states to make the necessary modifications to any identified impediments that may result from the requirements.

Because 24 states currently have a renewal period longer than five years, extending the reenrollment period beyond the proposed five-year period would negate some costs related to expanding capacity and allow the remaining cost to be spread over a longer period of time. States could allow for alternative renewal processes to continue during the re-enrollment period, provided that certain existing customer data could be validated before issuance.

Solution 3: Exempt Certain Populations from the Real ID Requirements

Another way to reduce the operational and financial burden of the act is to reduce the population subject to the Real ID Act requirements. NCSL believes that certain segments of applicants should be exempt from the Real ID process. This exemption could be based on certain requirements related to applicable risks such as year of birth or duration of continuous relationship with the state of licensure.

For example, if I have an 82-year-old neighbor who has lived in Texas her entire life, the DMV should be able to use its current issuance and renewal process and send her a compliant license when her driver's license comes up for renewal. Although the draft regulations provide states some flexibility in verifying the identity documents of individuals born before 1935, they do not exempt them from other aspects of the act. Under the draft regulations, my 82-year-old neighbor would still have to visit her local DMV. Is this really necessary?

In addition, the final regulations should waive the verification requirements for applicants who already have been through an identity verification process conducted by the federal government, such as individuals with military IDs, U.S. passports, Transportation Worker Identification Credentials, or certain federal employee identification cards. If an individual can walk out of a DMV and get on a plane with an identification card issued by the federal government, shouldn't that be enough for a state to issue a Real ID compliant license or identification card to an individual?

Solution 4: Provide the Necessary Federal Funds

Federal funds must be provided immediately for successful implementation of the Real ID. Whether one uses the NCSL, NGA and AAMVA state implementation cost of \$11 billion over five years or the DHS state implementation cost figure of \$10 billion to \$14 billion over 10 years, the Real ID is an enormous unfunded mandate. For Texas, the startup costs have been estimated at \$142.6 million, with ongoing annual operational expenses of \$67 million.

NCSL is concerned that Congress and the administration to date have provided only \$40 million for state implementation; that was in FY 2006. NCSL is even more concerned that the FY 2008 Senate Budget Resolution fails to provide funds for state implementation of the Real ID. It is critical that new federal funds—and I emphasize new—be provided for state implementation of the Real ID. States should not be required to use current and diminishing State Homeland Security Grant Program funds. This grant program already has been reduced from more than \$1 billion to \$525 million over the past two years. Under the President's FY 2008 budget, it would be further reduced to \$187 million.

The final regulations should prohibit federal agencies from charging states transaction fees for accessing the required electronic verification systems. This also should apply to state use of the necessary Federal Bureau of Investigate databases to conduct background checks on DMV employees.

NCSL recommends instituting a legislative trigger that would automatically release states from complying with any Real ID provision in any fiscal year in which the Congress fails to appropriate funds for these purposes.

Mr. Chairman, in closing I would like to add that NCSL remains steadfast in its resolve to work with federal policymakers to fix, fund and implement the Real ID Act before December 31, 2007, as stated in our policy. I encourage you to consider legislative action to ensure that the solutions I have proposed today are implemented expeditiously. This will provide states the necessary certainty to move forward in implementing the act. NCSL is encouraged that you and other federal lawmakers have recognized the difficulties states face, and we look forward to working with you on this important issue.

I thank you for this opportunity to testify and look forward to questions from members of the subcommittee.