

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
INTERGOVERNMENTAL AFFAIRS COMMITTEE HEARING
PRESENTATION ON Real ID ACT OF 2005

- - - - -
THURSDAY, FEBRUARY 21, 2008
- - - - -

BEFORE:

HONORABLE W. CURTIS THOMAS, CHAIRMAN
HONORABLE DAVID J. STEIL
HONORABLE MARK B. COHEN
HONORABLE ANTHONY J. MELIO
HONORABLE DUANE MILNE
HONORABLE KEITH J. GILLESPIE
- - - - -

Held at City Council Caucus Room, City
Hall, 4th Floor, Philadelphia, Pennsylvania, commencing
at 10:00 a.m., on the above date, before Virginia
Jones-Alleyne, Professional Court Reporter and Notary
Public.

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(215)928-9760

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1 P R O C E E D I N G S

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3 CHAIRMAN THOMAS: Good morning to
4 everyone. My name is W. Curtis Thomas, and I'm
5 Majority Chair of the Pennsylvania House
6 Intergovernmental Affairs Committee. And I welcome each
7 and everyone of you this morning.

8 Our format for this hearing, first part
9 of the hearing we will deal with designated presenters
10 who have testimony to offer and then I guess during the
11 last 15 minutes of the hearing, once we finish with our
12 presenters, we will open and opt comments from the
13 public. And if that is okay with everyone here, at this
14 particular time I would like to ask the Minority Chair,
15 the Honorable Steil, if he wants to say good morning
16 before I go into my comments.

17 REPRESENTATIVE STEIL: Thank you, Mr.
18 Chairman and it's good to see all of you here this
19 morning.

20 It's extremely important and becoming a
21 very controversial issue. We need to get a lot of facts
22 on the table, that's what we're going to do this
23 morning. And as Chairman Thomas has already said, we
24 will give an opportunity for some additional comments at

1 the end. We welcome all of you here and hope we'll get
2 information that will help us make a good decision on
3 Real ID. Thank you.

4 CHAIRMAN THOMAS: Thank you,
5 Representative Steil.

6 As Chairmen of the House of
7 Intergovernmental Affairs Committee, I would like to
8 welcome you to the second of five public hearings on the
9 Federal Real ID Act of 2005.

10 In May of 2005, Congress enacted the
11 Real ID laws to address concerns regarding the creation
12 of fraudulent identification documents and terrorism.
13 The Department of Homeland Security released final
14 regulations regarding Real ID on January 11th of this
15 year. Depending on the action taken by the Commonwealth
16 of Pennsylvania, compliance with the Act can occur as
17 early as May 11th of 2008, but must be phased in for
18 everyone in the United States no later than December 1st
19 of 2017.

20 This Act will impact the lives of at
21 least 240 million Americans, including over 9 million
22 Pennsylvanian's. The Act outlines nationwide standards
23 for State driver's licenses and identification cards
24 used for an official purpose, which is designed as entry

1 into federal facilities, boarding commercial airlines
2 and entering nuclear power facilities.

3 Real ID is a Federal law. The Federal
4 Government, though, has allocated only 90 million to
5 assist states with implementation of Real ID.
6 Department of Homeland Security estimates that the cost
7 to put Real ID in place will be about \$3.9 billion. A
8 study by the National Conference of State Legislatures,
9 the National Governors' Association and the American
10 Association of Motor Vehicles estimate that states will
11 need to spend 11 billion, over 5 years, to meet Real ID
12 requirements.

13 Implementing Real ID will cause
14 operational and physical challenges for Pennsylvania and
15 our State government. The Department of Transportation
16 estimated that Real ID will cost at least \$85 million to
17 implement in Pennsylvania. In order to obtain Real ID
18 driver's licenses and identification cards, individuals
19 would need to make in-person visits and bring documents,
20 such as Social Security cards, birth certificates and
21 proof of address to PennDot.

22 Renewing licenses in person will be
23 extremely burdensome for people, especially the poor,
24 the elderly and individuals born in other countries. To

1 date, it is my understanding that there is only 102
2 Photo ID centers currently in Pennsylvania to handle
3 this 9 billion-plus people. Although states are not
4 required to implement Real ID, any state choosing to opt
5 out of the Act would cause a monumental inconvenience to
6 it's residents.

7 Residents who currently use driver's
8 licenses as their primary form of identification to
9 board an airplane or to enter secure federal facilities
10 will be unable to do so. They will be left using
11 passports or some other identification to enter Federal
12 facilities.

13 Pennsylvania residents, legislatures and
14 other policies makers must take notice about Real ID.
15 The Act will disrupt the lives of many Pennsylvanians
16 and Americans. Legislatures must educate the public
17 about gathering personal documents leading to the
18 process of Real ID cards and about implementation of
19 procedures for renewing driver's licenses and
20 identification cards. Residents also need a poor voice
21 concern about the Real ID Act and regulation.

22 And let me put on the record,
23 Pennsylvania has not decided to comply or non-comply.
24 Our right to travel within the United states has the

1 potential to be significantly impacted by the Real ID
2 Act. People who do not have Real ID compliant licenses
3 and identification cards may be unable to board
4 airlines for basic travel. Pennsylvania has requested
5 and received an extension to comply with the Real ID Act
6 provision until to December 31, 2009. And I should
7 mention that PennDot and our Committee's request for
8 this extension, does not imply compliance.

9 The first request for extension does not
10 carry with it a permanent compliance to the law.
11 Between now and the extension deadline a decision will
12 be made about Pennsylvania's compliance with the Act.

13 Legislatures, advocates and other policy
14 makers in Pennsylvania must work with PennDot to
15 evaluate the consequences and costs to the Government
16 and to residents of Pennsylvania to meet Real ID
17 requirements and determine whether our state should
18 comply with the Real ID Act.

19 Part of this evaluation involves
20 education about the Act. These hearings will educated
21 government officials and empower residents about the
22 possible impact of the Real ID law. We hope that
23 participants in these hearings will learn more about the
24 law and how the law and regulations will impact

1 Pennsylvania.

2 And I also should put on the record that
3 the Pennsylvania House of Transportation Committee, the
4 Pennsylvania House, Pennsylvania State Government
5 Committee, which the Majority Chair is the Honorable
6 Babette Josephs, the Pennsylvania Policy Committee and
7 Pennsylvania House Leadership, through the Honorable
8 Keith McCall, the Majority Whip, we will all be working
9 in collaboration to carry out the mandate of
10 Pennsylvanians. So we are all working together, even
11 though the Intergovernmental Affairs Committee is
12 leading these public hearings, we are all connected.

13 And I'm glad to see Paul Costa, from the
14 Majority Whips, also with us this morning.

15 So if there are no preliminary questions
16 or concerns, let me acknowledge the Honorable
17 Representative Gillespie, who is with us, and the
18 Honorable Representative from Bucks County,
19 Representative Melio; Representative Josephs, as I
20 mentioned, Majority Chair of the House State Government.

21 She has informed me that we are in her
22 house, the 182nd District, and we are glad to be here.

23 We are going to start off this morning
24 with the Department of Homeland Security. Is someone

1 all fifty state legislatures are members -- and we are
2 proud to count all 7,400 elected legislators as well as
3 all the 30,000 plus staff who help you with your work as
4 our members.

5 NCSL was created in 1975 with three
6 primary goals: 1. To foster interstate communication
7 among state legislators and staff on issues of common
8 concern; 2. To strengthen the capacity of state
9 legislatures to play their appropriate and laudable
10 constitutional roles; and 3. To lobby on behalf of
11 state legislatures, and states writ large, in
12 Washington, D.C.

13 For NCSL to lobby an issue, state
14 legislators from three-quarters of the states must agree
15 on a position. You and your elected colleagues
16 determine not just what NCSL's lobbying priorities
17 should be, but what message you want us to deliver to
18 Congress and the Federal Administration on your behalf.
19 Since 2006, you have provided NCSL with clear guidance
20 on Real ID, and even Department of Homeland Security
21 credits your engagement for dramatically altering the
22 Real ID final regulations.

23 In my testimony today, I would like to:
24 Give you a brief history of Real ID; share with you some

1 quick impressions of the final regulations; provide a
2 snapshot of NCSL's work on Real ID and developments in
3 Congress; and note what actions states took in 2007 and
4 so far in 2008 on Real ID.

5 Make no mistake, Real ID is not the only
6 driver for improving the security and reliability of
7 state-issued identity credentials. States have been
8 moving to improve systems and ID documents since even
9 before September 11th. Indeed, the Department of
10 Homeland Security recognizes, in the Real ID final
11 regulations, that many states have made significant
12 progress in improving the integrity of their licenses.
13 And I look forward to your questions and discussion at
14 the conclusion of my remarks.

15 When the 9/11 Commission issued its
16 final report, it suggested that: Secure identification
17 should begin in the United States. The federal
18 government should set standards for the issuance of
19 birth certificates and sources of identification, such
20 as driver's licenses. Fraud in identification document
21 is no longer just a problem of theft. At many entry
22 points to vulnerable facilities, including gates for
23 boarding aircraft, sources of identification are the
24 last opportunity to ensure that people are who they say

1 they are and to check whether they are terrorists.

2 Congress acted to realize the
3 Commission's recommendation, and in December 2004,
4 President George W. Bush signed into law the National
5 Intelligence Reform Act of 2004. The law, among other
6 things, required the U.S. Secretary of Transportation to
7 establish a negotiated rulemaking process to establish
8 minimum standards for state-issued driver's licenses and
9 identification cards. The group assembled to undertake
10 the negotiated rulemaking process -- including state
11 officials, privacy advocates, information technology
12 experts, federal transportation and homeland security
13 officials, and others -- met once before the process was
14 stopped by Real ID.

15 Real ID mandates that states issue state
16 driver's licenses and identification cards pursuant to
17 federal minimum standards. If states do not comply,
18 their IDs will not be accepted for federal purposes,
19 which includes boarding commercial aircraft, entering
20 federal buildings, entering nuclear power plants, or
21 other purposes designated by the Secretary of DHS. The
22 Real ID Act of 2005 sailed through Congress and landed
23 on the president's desk, without a hearing in either
24 house, as part of the Emergency Supplemental

1 Appropriation for Defense, the Global War on Terror, and
2 Tsunami Relief, 2005. It was signed into law on May 11,
3 2005.

4 Nearly three years later and just 120
5 days before the statutory implementation date, on
6 January 11, 2008, Department of Homeland Security issued
7 the final regulations to guide states' implementation of
8 the act. The Final Regulations the good news is that
9 the final rules seem to offer much more flexibility for
10 states than was originally proposed in the draft
11 regulations, which were issued on March 1, 2007 and on
12 which comments were accepted through May 8, 2007. Based
13 on this flexibility, DHS has re-estimated the 10-year
14 costs to states at just under \$4 billion, down \$10
15 billion from the original \$14 billion estimate. In
16 September 2006, NCSL, the National Governors Association
17 and the American Association of Motor Vehicle
18 Administrators estimated the five-year cost of Real ID
19 to be \$11 billion.

20 The final rules still require states to
21 ensure that all applicants are legally in the country
22 and to verify applicants' documents using electronic
23 databases, some of which are still under development.
24 States are required to store copies of these documents

1 and to make their department of motor vehicle databases
2 available to all other states. States must conduct
3 background checks on certain DMV staff and secure the
4 facilities where licenses are produced and where
5 information and materials are stored.

6 So then, what flexibility produces a \$10
7 billion cost savings? The new rules are much less
8 prescriptive, allowing states to develop their own
9 security plans and to self-certify compliance with most
10 of the requirements. Gone are the rigid prescriptions
11 for the security features of the identification card
12 itself, replaced by several options from which states
13 can choose. And, as states ease into issuing Real IDs,
14 they will now be able to do so over six years, starting
15 with people born after 1964.

16 States can request an extension of the
17 May 11, 2008, deadline, which will be valid through
18 December 31, 2009. If a state takes steps toward
19 complying, a second extension can be requested, which
20 will run through May 10, 2011. During these periods,
21 licenses from states with extensions will be accepted by
22 DHS for official federal purposes such as boarding an
23 aircraft and entering federal buildings and nuclear
24 power plants. States must begin issuing Real IDs on May

1 11, 2011, and are expected to have enrolled everyone
2 born after 1964 by 2014, completing the entire
3 enrollment process by December 1, 2017.

4 The bad news is that costs remain a
5 major concern and money from Washington is barely a
6 trickle. Until the President's latest budget proposal,
7 the Administration and the Department of Homeland
8 Security had never requested funding for state costs in
9 the president's budgets. DHS has authorized states to
10 use State Homeland Security Grant Program funds for Real
11 ID, but this money is largely already spoken for by
12 other Homeland Security priorities. Congress has
13 appropriated only \$90 million since Fiscal Year 2006,
14 leaving states to absorb the difference or pass on the
15 cost to residents.

16 The President's budget proposal for
17 Fiscal Year 2009 zeroes out the grant program for states
18 that Congress created for Fiscal Year 2008, instead
19 makes Real ID one of the eligible programs for a new
20 \$110 million National Security and Terrorism Prevention
21 Grant program, while at the same time slashing the SHSGP
22 program by 78 percent. NCSL's Executive Director has
23 said that Real ID represents federal standards, and they
24 deserve federal dollars.

1 At the Nashville Annual Meeting in 2006,
2 state legislators adopted a policy calling on Congress
3 to fix and fund the Real ID by December 31, 2007 or NCSL
4 would call for the repeal of the act. The fixes needed
5 were derived from a September 2006 study conducted by
6 NCSL, the National Governors Association, and the
7 American Association of Motor Vehicle Administrators to
8 determine the anticipated cost to states to implement
9 Real ID and the elements states needed to see in the
10 implementing rules to make Real ID operable.

11 Fixes included changed and more lenient
12 timelines, measures that allow states to manage the
13 lines at DMVs, as well as connectivity and verification
14 system issues. That September 2006 report estimated
15 state costs -- NCSL's "fund" request -- at over \$11
16 billion for the first five years. Before the close of
17 the 109th Congress, in December 2006, United States
18 Senators Akaka of Hawaii and Sununu of New Hampshire
19 introduced legislation that repealed Real ID and
20 returned to the negotiated rulemaking process that
21 preceded it.

22 When the 110th Congress dawned in 2007,
23 Senators Akaka and Sununu were joined by Senators Leahy,
24 Baucus, and Tester to reintroduce their repeal and

1 replace legislation. Senator Akaka invited NCSL to
2 testify before his Senate Homeland Security and
3 Governmental Affairs Subcommittee on Oversight of
4 Government Management, the Federal Workforce, and the
5 District of Columbia; then NCSL President and Texas
6 State Senator Leticia Van de Putte represented NCSL on
7 the March 2007 panel. Congressman Allen, of Maine,
8 introduced similar legislation in the U.S. House.

9 Senator Snowe, of Maine, introduced
10 legislation to delay the implementation of the Real ID
11 and require the Department of Homeland Security to take
12 into account the concerns and challenges associated with
13 states compliance with the implementation of the Real
14 ID. Some other bills have been introduced suggesting
15 more stringent means for encouraging states to comply
16 with Real ID. There has also been legislative language
17 that attempted to expand the use of Real IDs -- some
18 bills have called for states to use Real IDs for voter
19 registration purposes and one immigration bill funding
20 item linked Real ID to employment eligibility.

21 Thus far, the only action taken in the
22 110th Congress has been to provide \$50 million for state
23 Real ID implementation costs. When the long-awaited
24 draft regulations were issued in the spring of 2007,

1 NCSL analyzed the regulations and provided state
2 legislators with short one- to four-page briefs on
3 various aspects of the rules, which were extremely
4 prescriptive and inflexible. NCSL again joined with NGA
5 and AAMVA to submit joint comments before the May 8,
6 2007 comment deadline.

7 NCSL has been testifying regularly
8 before state legislative Committees and providing
9 briefings on Real ID. NCSL's Fix and Fund policy was
10 renewed at the 2007 Annual Meeting in Boston with
11 additional language regarding privacy protections and
12 specification that NCSL sought fixes at least \$1 billion
13 for state start-up costs by December 31, 2007, at which
14 point NCSL would call for repeal.

15 In October 2007, DHS began to advise
16 stakeholders that the final regulations were imminent
17 and that they had heard the comments of states. In
18 fact, Richard Barth, DHS Assistant Secretary for Policy
19 Development, briefed NCSL's Officers in October,
20 recorded a podcast for the NCSL website in November, and
21 spoke to NCSL's Fall Forum in Phoenix . At the Fall
22 Forum, NCSL's Fix and Fund policy was further tweaked so
23 that if the December 31, 2007 deadline was not met, NCSL
24 would call for the repeal of Real ID and a return to the

1 negotiated rulemaking process.

2 Now that the final rules have been
3 issued, NCSL is analyzing the rules and disseminating
4 briefs. NCSL is also assessing the fixes attained in
5 the final regulations and how to best carry forward
6 NCSL's lobbying policy. You can access NCSL's policy
7 positions, Senator Van de Putte's testimony, the
8 NCSL-NGA-AAMVA studies and statements, links to the
9 referenced congressional legislation, as well as much
10 more information on Real ID at A State Rebellion.

11 In 2007, 44 states considered
12 approximately 145 bills or resolutions related to Real
13 ID. Legislation passed in 25. Twenty-one states passed
14 measures that either prohibited state compliance with
15 the act or urged Congress to amend or repeal it. Maine,
16 Montana, New Hampshire, Oklahoma, South Carolina and
17 Washington passed laws that strictly prohibit state
18 agencies from complying. Idaho appropriated zero
19 dollars for its implementation in 2008, and legislative
20 chambers in 15 states passed resolutions or memorials
21 that urged Congress to amend or repeal Real ID, or
22 indicated the state's intent to not comply.

23 Georgia lawmakers authorized the
24 governor to delay implementation unless certain

1 conditions are met. Only Indiana and Nevada expressly
2 decided to bring their states closer to compliance,
3 though the Ohio General Assembly directed the Ohio
4 Department of Public Safety to request an extension for
5 Real ID compliance and Tennessee appropriated funds for
6 Real ID implementation.

7 So far this year, 26 bills have been
8 introduced in 15 states regarding Real ID. Several move
9 states toward compliance while others prohibit
10 compliance, notably Pennsylvania Senate Bill 1220,
11 introduced by Senator Mike Folmer as a companion bill to
12 Representative Sam Rohrer's HB 1351 which is before this
13 Committee. DHS has indicated that requesting the first
14 of the two possible deadline extensions does not require
15 states to commit to implementing Real ID. So far, 45 of
16 51 jurisdictions have requested and received these
17 initial extensions; according to DHS, Delaware, Maine,
18 Montana, New Hampshire, and South Carolina have not yet
19 been granted extensions.

20 Word from several of these states is
21 that they will not be reversing their position in
22 opposition to Real ID, but how states will ultimately
23 react to the final rules and the remaining DHS-estimated
24 price tag of \$4 billion remains to be seen.

1 In closing, NCSL's policy process will
2 continue to determine NCSL's posture on Real ID, and I
3 encourage you to be involved in that process so that
4 your and Pennsylvania's interests are factored into the
5 debate. NCSL will continue to monitor state reaction
6 and developments on Capitol Hill or within DHS, and we
7 look forward to remaining a resource to you as you
8 consider Pennsylvania's best course of action.

9 Thank you again for the opportunity to
10 appear before you today, and I look forward to your
11 questions.

12 REPRESENTATIVE STEIL: Thanks for your
13 testimony. Thank you for joining us today.

14 Member's questions? Representative
15 Melio.

16 REPRESENTATIVE MELIO: To this point,
17 how many states have accepted and how many have
18 rejected?

19 MR. MEADOWS: So far only two states
20 have.

21 REPRESENTATIVE MELIO: Who are they?

22 MR. MEADOWS: Nevada and Indiana.

23 So far there are six that have put in
24 statutes or some strong language (inaudible).

1 REPRESENTATIVE MELIO: Did they state
2 the reason they are not going to?

3 MR. MEADOWS: Well they range from a
4 concern about state sovereignty and in their view it's
5 an infringement on state sovereignty. Some view it as
6 an effort to transfer (inaudible) to the states.

7 REPRESENTATIVE STEIL: Thank you,
8 Representative Melio.

9 Representative Josephs.

10 REPRESENTATIVE JOSEPHS: Thank you, Mr.
11 Chairman. Especially in a way of courtesy since I'm not
12 a member of this Committee.

13 Did NCSL call for repeal and return to
14 the earlier system? It doesn't seem clear to me from
15 your testimony.

16 MR. MEADOWS: That fact is that we came
17 upon the December 31, 2007 deadline with DHS very
18 strenuously promising final resolution. We have not
19 written a letter or formally called for the repeal or
20 placement, but we have been very clear that if the
21 repeal was moved to Congress we would go forward.

22 REPRESENTATIVE JOSEPHS: Thank you.

23 One other question, if I may, this
24 really should be directed to the person from the federal

1 government who is here but I'm going to ask you in case
2 you know. Do you know if there are other states that
3 have the same situation? I would direct it to Mr.
4 Darrell William from the U.S. Department of Homeland
5 Security, but he is not present.

6 In Pennsylvania you probably -- you
7 might know -- we have a very well established exception
8 for people whose religious belief don't allow them to
9 have their picture taken. You could even download, I'm
10 told, photos from the internet to fill out when you're
11 renewing or initially applying for your driver's
12 license. Do you have any idea whether there are rules
13 on the federal level that will allow for that exception
14 and do other states have similar or substantially the
15 same kind of rules?

16 MR. MEADOWS: The rules do allow for
17 many exceptions and allow states to set up for processes
18 and exceptions. At this point and time ones flexibility
19 is extended due to the fact that the state can have an
20 exception process simply to support the Department.

21 For the photograph, however, there is
22 accommodation in the traditional photograph of a person
23 that is specifically enumerated in the statute. So the
24 department has much flexibility in providing exceptions

1 for that.

2 REPRESENTATIVE JOSEPHS: I should note
3 that it is not only the organization that I'm involved
4 with, the American Civil Liberties Union, but also the
5 American Center for Law and Justice, which very often we
6 don't agree on too many issues, and being divide by the
7 Pennsylvania's corporate travelers that see who are
8 beginning to ask these kinds of questions. And I would
9 assume that there will be more travelers and tourist
10 industries listening in as this debate continues.

11 Thank you, Mr. Chairman.

12 CHAIRMAN THOMAS: Thank you, Chairlady
13 Josephs.

14 Now I would like to turn to the members
15 that has joined us. The Honorable Duane Milne, who has
16 questions.

17 REPRESENTATIVE MILNE: Thank you, Mr.
18 Chairman.

19 Mr. Meadows, in your testimony, you
20 quite appropriately cite examples of states that
21 represent objections and illustrates what certain states
22 we are dealing with. Do we have any type of
23 quantifiable evidence about what the basis of the
24 rejection states are in the sense of how many states is

1 the cost matter versus how many states is it a
2 philosophical matter, in a sort of way such that you
3 would say if the money was there how many states would
4 object?

5 MR. MEADOWS: Representative, I would be
6 happy to pull that for you, but we don't have data on
7 Real ID. I will pull that for you. I don't have it on
8 states' cost as the primary -- some states have
9 indicated the cost is the primary concern, some states
10 have indicated that they will comply if the federal
11 government supplies the funding. Other states are
12 opposed to compliance on federal concerns. So I can't
13 give you statistics as it would apply, but it would be
14 helpful to put that together from our database.

15 REPRESENTATIVE MILNE: I would
16 appreciate it. I think it's really a center-piece, the
17 question of how much of this could be resolved if the
18 state develop funding to provide it and for how many
19 truly it's a philosophical objection that's a whole
20 different debate, different basis.

21 Do you have any sense then on an
22 on-going basis, where you think the funding on this
23 matter is headed? Is it going to be now a situation,
24 based on your testimony, states are going to have to

1 compete for grants if they want to be able to secure
2 Real ID funding, so we're not going to be able to have
3 anyone that is going to have any constant stream of
4 funding to put Real ID in place. To the extent it's a
5 competitive process, the state may or may not actually
6 secure the grant for it; is that your understanding?

7 MR. MEADOWS: That certainly seems to be
8 so far. And as I mentioned, the Department published
9 the first response to the question was that states use
10 20 percent of their costs. As you know, states are
11 required to ask for 80 percent of those funds. Most
12 states have all the resources in place for Homeland
13 Security compliance.

14 The \$90 million in funds that have been
15 allocated so far on the competitive grant program, at
16 this point and time, we are waiting for the guideline
17 for that grant to be written. The Department is
18 discouraging states from applying for state-specific
19 needs or state-specific programming limitations and
20 encourage states to cooperate and collaborate to create
21 one of the required verifications slips.

22 Basically the systems will allow states
23 to touch each another's data bases or DMR data bases to
24 ensure one driver on record. So that is where the

1 Department funds are directed. And in 2009, the
2 Department has agreed to a new grant program of \$110
3 million in realigning. That's one of the things that
4 program could be used for, but that would be a better
5 process.

6 REPRESENTATIVE MILNE: Thank you, Mr.
7 Chairman.

8 CHAIRMAN THOMAS: Thank you.
9 Chairman Steil.

10 REPRESENTATIVE STEIL: Thank you, Mr.
11 Chairman.

12 Since the publication of the final
13 regulation, has states, that have previously determined
14 they would opt out, reconsidered or are they in the
15 process of reconsidering based on filing issues?

16 MR. MEADOWS: The fact is that many of
17 the states are still in legislative session and still
18 debating this. Some states that had indicated they were
19 not going to participate have applied for the initial
20 extension, which gives me some premises that the
21 extension is not promised or required to compliance down
22 the road. Some states are still holding strong.

23 In fact, the governor of Montana has
24 written letters to many of his colleagues around the

1 country urging them to not participate. So I think that
2 at this point it's a little too early to tell, but
3 several of the states, in 2007, who extended legislation
4 not to apply for the ID have to apply for the state
5 extension.

6 REPRESENTATIVE STEIL: Second question:
7 For those states that have opted out could, effective
8 legislative action go to their home state directing the
9 agency not to participate because of the harm that could
10 be caused by the information that would go on a driver's
11 license or other identification.

12 If that happens does it harm the ability
13 of states to interact with each other regarding
14 information already that -- for example, most states
15 have reciprocity agreements in the driver's license
16 system. So if someone has a suspended or revoked
17 driver's license as a result of DUI, in other words,
18 they can't go to another state and get a driver's
19 license. If the state opts out of this system, does it
20 do any damage to those abilities of those states to
21 exchange information?

22 MR. MEADOW: That's a question that I
23 might defer to Mr. Myers. My initial reaction is no, I
24 don't think it would. In fact, as I mentioned, the

1 grant fund for the Department of Homeland Security at
2 this point and time are dedicated to creating a system
3 for the states to communicate with each other for the
4 purposes which we suggest is additional systems that
5 would be above and beyond any existing systems we adopt.
6 So I don't think that by not participating would
7 preclude the program.

8 REPRESENTATIVE STEIL: The last
9 question, perhaps, also would impact Mr. Myers, but
10 state police authorities today and motor vehicle bureaus
11 also use federal crimes identification systems in order
12 to ensure that if you go to another state and they got
13 state license you do not get by DMV. Does Real ID, as
14 far as you know, impact any of the uses of those initial
15 crime identification systems?

16 MR. MEADOWS: Not to my knowledge.

17 REPRESENTATIVE STEIL: Thank you, Mr.
18 Chairman.

19 CHAIRMAN THOMAS: Representative
20 Josephs.

21 REPRESENTATIVE JOSEPHS: I'm practical,
22 a little bit out of order and I have to leave,
23 unfortunately. I would like to ask Mr. Myers, I had
24 asked you at the last hearing to get me some information

1 about licenses that are issued to people who are
2 transgender and their birth certificate would not match
3 up with their appearance. And really, I just want to
4 let you know, I'm still interested in that information.
5 As far as I know, I have not received that information.

6 MR. MYERS: We did respond and there was
7 a letter sent to the Chair, but certainly we would be
8 happy to get you a copy of that.

9 REPRESENTATIVE JOSEPHS: Because I'm
10 concerned as we go through this initial issue about
11 exception or non-exception leading to the initial
12 practice of law or individuals in that situation.

13 Thank you, Mr. Chairman.

14 CHAIRMAN THOMAS: Thank you.

15 I have one question, Mr. Meadows. When
16 did NCSL states have to get on board or signal
17 affirmative non or positive?

18 MR. MEADOWS: Well, at this point,
19 according to the final regulation, that decision has to
20 be made by December 31, 2009. It's by that point the
21 state will need to have begun the compliance process in
22 order to be certify the steps or materials to the
23 Department in order to qualify or to be sent.

24 CHAIRMAN THOMAS: My second question:

1 We have 19 congressional representatives from
2 Pennsylvania and we have a balanced body in the United
3 States congress. Has there been any effort, either on
4 the part of the Pennsylvania congressional
5 representative or some other to hold up or prevent
6 implementation of the Real ID card?

7 MR. MEADOWS: Not specifically to my
8 knowledge. I can certainly look to see, but at this
9 point and time the U.S. House is offering for the repeal
10 of the Real ID.

11 CHAIRMAN THOMAS: Because given the
12 number of states that have responded to Real ID,
13 especially those who have affirmatively stated that they
14 will not comply, I am curious as to whether or not the
15 congressional papers is doing anything in Washington to
16 change the landscape.

17 MR. MEADOWS: There definitely has been
18 a lot of congressional engagement on Real ID, largely in
19 an oversight role with the Department, to try to
20 encourage the Department to effectively engage state
21 policy makers so that the final regulations does reflect
22 safety concerns both about policy practices and cost.
23 Some Senators who have oversight have encouraged the
24 Department to be very cognizant of state concerns.

1 CHAIRMAN THOMAS: And I guess for the
2 public at large, when a presidential term comes to an
3 end, I believe it's January 20th of next year, and a new
4 president comes in, is it possible for a new president,
5 Chief Executive Officer, to say that I have reviewed
6 this Real ID call and I find that the problems -- or
7 come in and say, that good state over there in
8 Pennsylvania does not have the 11 or 15 million
9 necessary or 85 million necessary to implement Real ID.
10 I want to come up with a new design or a new edition for
11 achieving what came out of 9/11 Commission; is that
12 possible?

13 MR. MEADOWS: I would say that, yes, it
14 is possible through three avenues. First a new
15 president could initiate a review and revision of these
16 files and rules and regulations. A new president would
17 have just a few days to influence the Fiscal Year 2010
18 budget and funding issues could be addressed through
19 budget proposal. And then thirdly, of course, the
20 president can urge members of congress to revisit the
21 legislation itself.

22 CHAIRMAN THOMAS: Okay. So if you have
23 your problems with Real ID implementation or Real ID
24 costs, now is not a bad time to begin expressing your

1 concerns.

2 I want to thank you for your testimony.

3 I want to thank you for your stewardship with the
4 National Conference of State Legislatures. I want to
5 thank you for answering the questions of our members.

6 MR. MEADOWS: Thank you for the
7 opportunity, and I certainly will remain available for
8 any further questions.

9 CHAIRMAN THOMAS: Thank you.

10 Before we go to our next presenter,
11 which is Kurt Myers, Deputy Executive for Safety
12 Administration and Pennsylvania Department of
13 Transportation, I want to, at least, acknowledge the
14 presence Mr. Tsiwen Law, Esquire, who is Co-Chair of the
15 Pennsylvania Bar Association Civil and Equal Rights
16 Committee. The Bar Association has submitted elegant
17 testimony at one of our earlier hearings and I want to
18 thank you for being here this morning.

19 MR. LAW: Thank you.

20 CHAIRMAN THOMAS: I also want to
21 acknowledge Craig Denega, who is with us who will be
22 devoting a minute or so at the end of our hearing to
23 offer some comments.

24 Mr. Kurt Myers, Deputy Secretary of

1 PennDot's Safety Administration for the Commonwealth of
2 Pennsylvania.

3 MR. MYERS: Thank you, Chairman Thomas
4 members of the Committee.

5 On behalf of the Secretary of
6 Transportation Allen Biehler, I present the opportunity
7 to testify today on the Real ID Act 2005.

8 As I stated in my testimony, at the
9 House Intergovernmental Affairs Committee Public Hearing
10 in Harrisburg, on January 23, PennDot acknowledges the
11 concept and principles of the Real ID Act of 2005 and
12 recognizes the fundamental importance of establishing
13 the proper identity when issuing a driver's license or
14 photo identification card. PennDot is committed to
15 enhancing the security of our products, processes and
16 facilities in a continuing effort to safeguard the
17 integrity of our driver licensing and identification
18 card systems. With this commitment, PennDot recognizes
19 the importance of maintaining the customer's expectation
20 that personal data will be secure and privacy
21 maintained.

22 The Real ID Act is a federal effort to
23 enhance the integrity and security of state-issued
24 driver's licenses and photo identification cards, which

1 is intended to aid in fighting terrorism and further
2 mitigating the risk for fraud. As you know, the United
3 States Department of Homeland Security released the
4 final Real ID regulations on Friday, January 11, 2008.
5 PennDot immediately began an in-depth analysis of the
6 284-page document.

7 As an update to my previous testimony, I
8 can assure you that my staff continues to meet
9 internally on a daily basis to review the regulations,
10 identify and discuss potential options, the costs of
11 those options and the impact to the citizens of the
12 Commonwealth.

13 Through contact with U.S. Department of
14 Homeland Security's Real ID Program Office Director
15 Darrell Williams, PennDot has been able to obtain some
16 clarification as to the requirements of Real ID set
17 forth in the regulations. However, U.S. DHS has
18 received questions from many jurisdictions, including
19 Pennsylvania, requiring answers in order to complete a
20 full analysis of the customer and cost impact of Real
21 ID. U.S. DHS will need time to respond to these
22 questions, and as of last week, we have not received a
23 response from U.S. DHS to our first set of questions.

24 In addition, the final guidelines for

1 facility security as it relates to Real ID may not be
2 released by U.S. DHS until March 15th this year. While
3 we have received preliminary information, the final
4 guidelines are needed before we can finalize our
5 facilities cost.

6 Regardless of whether Pennsylvania
7 decides to implement the Real ID Act, PennDot is and
8 will remain committed to enhancing the security of our
9 products, processes, systems and facilities and
10 maintaining the privacy of customer data. In fact, as
11 an example, PennDot recently completed an upgrade of its
12 photo technology and equipment at its Photo License
13 Centers across the Commonwealth. With this upgrade, all
14 driver's license products, including photo
15 identification cards, are outfitted with a new overlay
16 and security features. The new overlay and security
17 features help to mitigate the risk for fraud.

18 PennDot, also as part of this upgrade,
19 is now issuing temporary driver's licenses and photo
20 identification cards to individuals who have never held
21 a Pennsylvania driver's license or photo ID, such as new
22 drivers and new residents. The temporary product is
23 valid for 15 days. During that 15-day period, PennDot
24 uses state-of-the-art facial recognition technology to

1 validate that the applicant does not have more than one
2 driver's license or photo ID card already issued under a
3 different identity. PennDot is also using this
4 technology to conduct facial recognition checks of all
5 images we have stored in our database to determine if
6 multiple records exist for one individual.

7 After a comprehensive review has been
8 completed and if it is determined that the individual
9 has more than one record, those driving records are
10 cancelled. The facial recognition check is an
11 anti-fraud measure, which aids in further mitigating the
12 risk for identity theft.

13 In regard to the timeline set forth in
14 the final Real ID regulations, it is our interpretation
15 that the following chronology has been established:
16 As stated in my previous testimony, effective May 11,
17 2008, only Real ID driver's licenses and photo
18 identification cards will be accepted by federal
19 agencies for official purposes, such as boarding a
20 commercial aircraft, entering a nuclear power plant or
21 federal facility that requires identification, unless
22 the state in which the individual resides has been
23 granted an initial extension by the U.S. Department of
24 Homeland Security.

1 As you know, Pennsylvania has filed for
2 and has been granted an initial extension by the U.S.
3 Department of Homeland Security. Being granted this
4 extension does not commit the Commonwealth to
5 participate in Real ID. However, what this extension
6 means for the citizens of the Commonwealth is that they
7 will be able to continue using their current driver's
8 licenses or photo identification cards for federal
9 official purposes until December 31, 2009.

10 If Pennsylvania decides to implement the
11 Real ID Act, individuals born on or after December 1,
12 1964, approximately 4.1 million driver's license and
13 photo ID card holders, must have a Real ID driver's
14 license or photo identification card by December 1, 2014
15 for official federal purposes as defined by the final
16 regulations. Individuals born before December 1, 1964,
17 approximately 5.4 million driver's license and photo ID
18 card holders, must have a Real ID driver's license or
19 photo identification card by December 1, 2017 for
20 official federal purposes as defined in the final
21 regulations.

22 In regard to funding, currently Real ID
23 funds are very limited. However, funds are available
24 through a grant application process and/or redirection

1 of up to 20 percent of Pennsylvania's Homeland Security
2 committed funds. In consultation with Pennsylvania's
3 Office of Homeland Security, we calculate that the 20
4 percent equates to approximately \$9 million. However,
5 many of these dollars are already committed to other
6 homeland security efforts in Pennsylvania. This is
7 clearly a limited amount of funding considering the
8 potential costs of implementing Real ID.

9 Grant programs totaling \$81 million are
10 also available for all states that are participating in
11 Real ID. Again, this is minimal in comparison to the
12 potential costs of implementing Real ID in multiple
13 states, the District of Columbia and U.S. territories.

14 On a related note, Pennsylvania has
15 notified the state of North Carolina and the American
16 Association of Motor Vehicle Administrators of its
17 intent to participate as part of their grant application
18 to the United States Department of Homeland Security for
19 the development of Real ID-specified electronic
20 verifications systems. However, our participation does
21 not commit the Commonwealth to participate in Real ID.

22 The Administration continues to study
23 this issue to develop recommendations that balance four
24 critical factors: Security of our citizens and our

1 country, privacy of our citizens, convenience to our
2 citizens and costs to implement and maintain the Real ID
3 program.

4 Thank you. At this time, I'll be happy
5 to answer any questions you may have.

6 CHAIRMAN THOMAS: Representative Mileo.

7 REPRESENTATIVE MILEO: Are you
8 satisfied?

9 MR. MYERS: I think in many ways -- I
10 talked a little about this in the last hearing --

11 Pennsylvania, in many ways leads, the nation in the
12 product security in our processes that we use and the
13 checks that we use to validate that the person who is
14 there in front of us is in fact who they say they are.

15 I will tell you the other part of that
16 identity theft issue with fraud are a continuing problem
17 and the fact of the matter is that many of those
18 individuals who are willing to commit identity theft or
19 fraud learn new ways to do it. So as a department we
20 certainly can't stay stagnant in the way that we look at
21 the security features that we have on products or in the
22 products that we use. So going back to the earlier part
23 of my testimony, where I say that the Department
24 supports the principle of Real ID, when you look at the

1 principle of Real ID, they are basic to understanding
2 that there is this issue of security of products,
3 security of information and protection of information.
4 So we certainly agree with those principles.

5 We are still evaluating, from the
6 standpoint of Real ID and it's impact to the citizens
7 and the cost of that to the citizens, as to whether or
8 not this is something that we should move forward with
9 from the standpoint of what options are available to us.

10 REPRESENTATIVE MILEO: In the event that
11 we don't get the funding, we have to fund it; does that
12 mean less money?

13 MR. MYERS: Well, clearly, the money has
14 to come from somewhere. I think the fact is that we are
15 not sure at this point what this program will cost. We
16 are looking at options and, as you pointed out earlier,
17 there is more flexibility of this regulation. These
18 final regulations are more flexible and does give us
19 some ability to look at various types of options and how
20 we might go about initiating this if it is moved
21 forward, but the cost is certainly a big factor.

22 REPRESENTATIVE MILEO: Thank you, Mr.
23 Chairman.

24 CHAIRMAN THOMAS: Chairman Steil.

1 REPRESENTATIVE STEIL: Thank you, Mr.
2 Chairman and thank you Secretary Myers.

3 I believe in the testimony we had the
4 last time, in the testimony of Mr. Williams from the
5 Homeland Security, there was an indication that -- I'm
6 not sure if I got the number right -- there is something
7 like 15 elements that needed to be complied with
8 ultimately and that Pennsylvania already apparently
9 complied with 8, 9, 10.

10 MR. MYERS: There were 18, and we
11 complied with 11.

12 REPRESENTATIVE STEIL: Okay. 11 out of
13 18.

14 MR. MYERS: Yes.

15 REPRESENTATIVE STEIL: And that was
16 really the result of the work you have already done to
17 ensure the security of our driver's license and the full
18 identification process and all of that, which has
19 upgraded systems which you have done which is outside
20 the Real ID process which I guess would go out even if
21 we don't join the Real ID.

22 MR. MYERS: That would be correct.

23 REPRESENTATIVE STEIL: Does the
24 Department, at this point, having complied with 11 out

1 of 18, do we have an understanding yet what the cost
2 will be for the last 7 and are they really complex ones
3 for us? Are they difficult for us or could you just
4 enumerate 1 or 2 for us?

5 MR. MYERS: Absolutely. I will give you
6 the ones that are certainly more costly and of
7 significance that we do not currently do. There is a
8 requirement in the Real ID Act that when you visit one
9 of our sites that you would be required to take a photo.
10 That is the first thing that happens when you walk
11 through the door. That is totally opposite of what we
12 do today.

13 Today when you walk in and you apply for
14 a driver's license, say you are coming from out of
15 state, you walk in with the documentation that we
16 require, today a birth certificate, Social Security
17 card, two forms of proof of your address where you live.
18 We look at all that documentation, we evaluate that
19 documentation.

20 Today, in that case, we do one
21 verification on that documentation. On the Social
22 Security card we verify with the Social Security
23 Administration electronically that the individual's
24 Social Security number that has been presented to us is

1 in fact a match to the individual Social Security
2 system. The birth certificate, we look at. We do not
3 have an electronic verification system for that so we
4 are looking for the raised seal when you come in.

5 And the two forms of resident
6 identification are simply a gas bill or electric bill or
7 something of that nature. Once we validate that
8 documentation either visually or electronically, at that
9 point, we then issue the ability to go over that
10 information.

11 This requirement that we take your
12 picture first before we do anything else creates some
13 significant process changes for us. As Chairman Thomas
14 pointed out earlier, we have 100 sites across the
15 state that we have to reconfigure to go about changing
16 how we are to go about that process. That's also a
17 technology question because now we've established a
18 record in our data base when you come through the door
19 once you have shown us all those source documents then
20 you go and get your picture, a photo is attached to that
21 record.

22 In this case, we would actually have to
23 take the picture. We have talked about how we have to
24 do that, probably issue you a number, you would take

1 that number because you want to have it in your data
2 base then you would go over and address all the
3 paperwork. The idea behind this it, getting back to the
4 principle, the idea behind this is not a bad idea
5 because what happens in the cases now is that if we have
6 somebody coming through the door with fraudulent
7 documentation, we will catch them when they come in from
8 the standpoint of looking at the documents and saying
9 none of this is fraudulent. Normally what happens is in
10 this situation, the person, once we get to a certain
11 point the person runs in the other direction.

12 If you get the picture up front, if that
13 person has fraudulent documents, even if they run off
14 and try again three days later, four days later you have
15 now captured that photo in your system. Because of
16 technology that I talked about earlier, we are then able
17 to compare that data against that to make sure that
18 that's somebody who does not receive fraudulent
19 documents. So that's one area. That's a huge process
20 from the standpoint of reconfiguring how we do business.

21 The second cost that's a major number is
22 in reference to requirements for the background checks.
23 Now certainly a Commonwealth employee, all our employees
24 go through a state police background check. That's a

1 name-based background check, but the Real ID requires
2 essentially what is a background check, but the costs
3 associated with that are significantly greater than the
4 costs that are currently scheduled for the Commonwealth
5 doing the background checks.

6 From the standpoint of procedurally as
7 well, we obviously have issues when we look at that
8 because we are asking existing employees already that we
9 have to go back -- they have to run all of our existing
10 employees for that initial check. Well, those are two
11 examples of the 7 items that are currently adhered to.
12 Those are possibly the two largest from that standpoint.

13 REPRESENTATIVE STEIL: Thank you. One
14 final question. Would it make any sense or would it be
15 possible for the Department to create a dual system,
16 that is a system that generates, for those who wish to
17 have a Real ID identification, to obtain that through
18 the Department and for those who do not wish to have
19 such an ID to follow the system that we have already in
20 place, even if the person desiring the Real ID-compliant
21 document paid for it at cost, because that's valuable to
22 some people?

23 MR. MYERS: The short answer to your
24 question is yes. And the point of fact is it is

1 something that is optional that we have looked at or
2 exploring the issues here from a standpoint of the
3 regulation. As I said earlier, the regulations are much
4 more flexible on what they give us the ability to be
5 able to do.

6 There is no question about the fact that
7 we look at this from the standpoint of Pennsylvania and
8 population. Like I said, there are many people who may
9 very well want a Real ID because they fly on a regular
10 basis, maybe they work in a nuclear power plant.
11 Certainly, there are a lot of people who never visit a
12 federal building, where it's currently required.

13 Keep that in mind, this is really
14 important for federal buildings who currently require
15 this identification. So Real ID is not changing the
16 fact that those federal buildings that do not require
17 all of that can change.

18 So there may be a whole subset of our
19 population in Pennsylvania that have no need for or
20 desire to get a Real ID. So, yes, we have looked at
21 this as an option. How would we employ that or go about
22 that? How many people might be interested in getting a
23 Real ID? We have gone to the Department of State at the
24 federal level and asked them how many of our residents

1 currently had a passport. Interestingly enough, that
2 number is not available. They can tell us how many they
3 issue every year, but they can't tell us how many
4 actually have passports. That is a number I would like
5 to have done. As you know, a passport is another form
6 of identification that they can use.

7 REPRESENTATIVE STEIL: Is that because
8 they don't have the information or won't reveal it?

9 MR. MYERS: I don't know the answer to
10 that. I do know they have the information. They can
11 give it for going back for Pennsylvania residents for a
12 certain number of years, but they don't have a total
13 number.

14 REPRESENTATIVE STEIL: Thank you for
15 your testimony.

16 MR. MEADOWS: If I can add one response.
17 The DHS cost estimate, just under \$4 million, actually
18 assumes that each state will operate the dual system and
19 assumes that states will provide their residents with
20 the option of getting Real ID or not, but I'm not --
21 we're still analyzing their cost estimate, but we are
22 not totally convinced that that actually takes into
23 account the cost estimate the creation for sustaining
24 two systems. That is something that you want to keep in

1 mind.

2 CHAIRMAN THOMAS: Thank you.

3 Glad to acknowledge the presence of the
4 Honorable Mark Cohen, who is a member of the democratic
5 leadership and the Pennsylvania House.

6 Are there any other questions?

7 Representative Gillespie.

8 REPRESENTATIVE GILLESPIE: Thank you,
9 Mr. Chairman.

10 Just one follow-up to Representative
11 Steil. How many employees are working with this?

12 MR. MYERS: The current estimation is
13 based somewhat on our interpretation by the regulation.
14 It says that DMV employees and/or contractors, but there
15 has been some question as to how broad that is. We're
16 assuming that that also will include some of our I.D.
17 people, anybody that has the ability to influence the
18 record or change the record would be required to go on
19 that MPO background check. Our best estimate, at this
20 point and time, is somewhere around 5,000 existing
21 people throughout our field operations.

22 We would also then work with
23 contractors. As you may know, one of our contractors is
24 QICH, they run all of our of photo centers. So all of

1 their employees would need to go under this as well.

2 REPRESENTATIVE GILLESPIE: Would they be
3 part of that 515?

4 MR. MYERS: No, they would not be part
5 of that.

6 REPRESENTATIVE GILLESPIE: How many
7 would you actually have including them?

8 MR. MYERS: I think I realize it's a
9 number somewhere between 1000 less than 1500, somewhere
10 in there.

11 REPRESENTATIVE GILLESPIE: What is your
12 feel for the turn-over rate within your organization?

13 MR. MYERS: The turnover is not that
14 high. Keep in mind, most of our employees in the field
15 are civil service employees. So we have a fairly large
16 number of employees.

17 REPRESENTATIVE GILLESPIE: But you don't
18 have a feel -- 10 percent, 20 percent?

19 MR. MYERS: No. I will be happy to get
20 that.

21 REPRESENTATIVE GILLESPIE: Thank you.

22 CHAIRMAN THOMAS: Thank you,
23 Representative Gillespie.

24 Deputy Secretary, do you have any idea

1 where Pennsylvania will end up on the issue of
2 compliance or non-compliance?

3 MR. MYERS: Chairman Thomas, I know
4 there are many around this table, as well as in this
5 room, and certainly outside of this room who are very
6 interested in what actions the Department of
7 Transportation will take in the deployment of Real ID.
8 And I know that people want that answer as soon as
9 possible.

10 When we reviewed the regulation, part of
11 what we did was an exercise to estimate what we thought
12 it costs to deploy, based upon that draft regulation, as
13 we pointed out earlier today, those regulations have
14 changed dramatically from what they were when we
15 drafted, but know from our standpoint, it is critical
16 that we are sure that we have explored all the options,
17 that we have looked at the costs associated with those
18 options and our position is to make an informed decision
19 for all of us.

20 When we look at this from a standpoint
21 from the Department Administration as well as the House
22 and the Senate so that we know and you know that you
23 have copies of information that were supplied as far as
24 numbers were concerned, because the fact of the matter

1 is that there are a number of factors on why would you
2 decide to participate or not to participate.

3 One of them is certainly cost. There
4 are other questions to be asked. I know that this
5 Committee has looked at, from the standpoint of where we
6 are today in Pennsylvania, with our security future,
7 what impact of not participating would have on the
8 people of Pennsylvania, and I know those are all
9 questions that we are struggling with.

10 So at this point I just do not feel
11 comfortable with saying that I know where we are going
12 to end up because we are still going through the
13 process. I will tell you, just from a practical
14 standpoint, as I mentioned in my testimony, we sent a
15 long list of questions to Darrell Williams, in DHS, that
16 was back in January, today we still have not received a
17 response. Those questions we need answered before we
18 can begin to finalize the numbers and to finalize what
19 the process might do.

20 Here again we're not 100 percent sure.
21 As you know with regulations of the law, there are areas
22 that are subject to interpretation. If we interpret
23 wrong and find out later that we misinterpret it, by
24 misinterpreting it there is a significant impact with

1 cost and you and others will be back to us saying why
2 did you miss that? How did that happen?

3 Let me just give you an example of that
4 where there is a point of clarification. One of the
5 things that the Real ID regulation ask for and require
6 is that from a standpoint of conviction information that
7 there be information on the record for all convicts.
8 There are some convictions we don't capture. If we're
9 required to capture some of these items, it could be a
10 significant cost to the Department. Now we have been
11 told at this point and time verbally that no we are not
12 going to require you do that, but we need that
13 information in writing saying that you have told us is
14 the opinion of DHS, but you don't have to do that.

15 The other area that we need
16 interpretation and guidelines on is related to the
17 facilities. While they have taken away much of
18 restrictiveness of the facility requirements, the fact
19 of matter is that they still have information that we
20 didn't get yet. So we can make interpretation as to the
21 changes we need to make to the facility. That's why at
22 this point we are not -- I'm not able to say where we --
23 I think we are going to.

24 CHAIRMAN THOMAS: Well, have you

1 received any response from the 19 members of congress
2 from Pennsylvania and/or the 46 members that sit on the
3 House Transportation Committee of Pennsylvania?

4 MR. MYERS: Not directly to me and I
5 don't believe through the Secretary. I'm not aware of
6 any contact.

7 CHAIRMAN THOMAS: One of my biggest
8 concerns is, Pennsylvania is probably second only to
9 Florida as far as elderly population. Some have
10 suggested that Philadelphia might be first in the county
11 with the population 65 and over, who are not in the
12 position -- might not be in the position to get to any
13 one of these 102 centers. What do we do about that?

14 MR. MYERS: I think it goes back to the
15 issue of, number one, those individuals and the way that
16 this is all supposed to be phased in. Those who are 50
17 and over and 49 and under, from the standpoint and of
18 site location based on requirements that are in the Real
19 ID, there is no question about the fact that if we were
20 to attempt to do this with existing personnel, the
21 numbers that we have today and the existing numbers of
22 sites, we would see an increase in the amount of time
23 that customers would have to wait to go through this
24 process.

1 From the standpoint of an individual who
2 already has a driver's license or an ID card, some of
3 our older residents may have a more difficult time
4 finding birth certificate information and as such that
5 might draw some difficulties, but again, I did point out
6 earlier that regulation do allow for exception
7 processing for individuals who, in cases like that,
8 where an individual didn't have available information.

9 CHAIRMAN THOMAS: What would be one of
10 the exceptions in the process?

11 MR. MYERS: As an example, let's use the
12 birth certificate as an example. We had an older
13 resident who, for whatever reason, was not able to
14 acquire their birth certificate. We might use some
15 alternative way of coming up with the ability to issue
16 that Real ID driver's license.

17 Now, the way the regulation read, we
18 have to report that we issued that exception and why we
19 did it and how we did it.

20 CHAIRMAN THOMAS: Okay. I understand
21 that exception. I guess what I was talking about is the
22 low income, in relation to Pennsylvanians who do not
23 have cars or who do not have the physical strength to
24 get from one place to a photo ID center. I'm talking

1 about people trapped in or living in rural Pennsylvania
2 who will not be able to get to a photo ID center.

3 MR. MYERS: No. You would still have to
4 physically come into the site.

5 CHAIRMAN THOMAS: But my next question
6 is, if Pennsylvania decided to welcome the information
7 that you have shared with us, in terms of the
8 underfunded mandate, how much it would cost them, but
9 assuming you don't receive another dollar from the
10 federal government for Real ID implementation, what
11 would it cost to 9 million people in Pennsylvania to get
12 this digitized uniform identification?

13 MR. MYERS: The answer to that is I
14 don't know.

15 CHAIRMAN THOMAS: Have you done any
16 estimates?

17 MR. MYERS: Well, we're working on those
18 numbers right now and those areas where we have to look
19 at drill down the information as to what facility
20 changes we are using. Would we need to hire more
21 employees. All those types of things that we are
22 working on has to be established.

23 CHAIRMAN THOMAS: Now, can we assume
24 that there is a timetable in which you plan to have that

1 kind of information?

2 MR. MYERS: Our hope is that we have
3 that information by the beginning of March. Some of it,
4 however, is depending upon the ability of DHS to give us
5 some of the answers to the questions we have as well as
6 guidelines they still have to produce. If those are
7 delayed, that would delay us.

8 CHAIRMAN THOMAS: So the House and
9 Senate would not need to commit anymore dollars in the
10 budget process for start or for implementation?

11 MR. MYERS: Well, we're not in the
12 position to make a decision as to participation or not
13 participation or some option in between. So from our
14 standpoint we are still going over that analysis.

15 CHAIRMAN THOMAS: Now, my license
16 expires in April of '09. We have an extension to
17 December '09, and I thought I heard that Pennsylvania's
18 digitized system would be acceptable to Homeland
19 Security, your facial imaging process will be acceptable
20 to Homeland Security, one of the standards involved in
21 this uniform, this Real ID, so can I expect when I come
22 in, in April of '09, to renew my license, that I will
23 receive a license that is acceptable to Homeland
24 Security?

1 MR. MYERS: That's correct.

2 CHAIRMAN THOMAS: Without compliance?

3 MR. MYERS: That's correct because our
4 extension is to December 31, 2009.

5 CHAIRMAN THOMAS: Okay. So I wouldn't
6 have to pay no more than -- what is it, \$26 now to renew
7 your license?

8 MR. MYERS: That's correct.

9 CHAIRMAN THOMAS: I can expect, in April
10 2009, it would not cost me anymore than \$26 to renew my
11 license. If there are any shifts in cost, that would
12 not occur until after December of 2009; is that correct?

13 MR. MYERS: That is also correct. And
14 we need to look at that from a standpoint that this
15 issue that DHS has instructed in its regulation in terms
16 of -- and what it goes back to is Chairman Steil's
17 question in relation to the compliance. To be
18 considered to be in compliance we would have to bring
19 ourselves to the level of compliance. There would
20 certainly be a cost associated with that and obviously
21 we would have to determine how that would be funded.

22 CHAIRMAN THOMAS: I guess my last
23 concern is, is there any efforts, on the part of
24 PennDot, to collaborate and/or coordinate this whole

1 Real ID conversation with local municipalities or with
2 statewide County associations?

3 MR. MYERS: We are in conversations with
4 our office, the Homeland Security team as well as the
5 Pennsylvania State Police and there are certainly stake
6 holders in this process from the law enforcement
7 standpoint as well as our Homeland Security.

8 CHAIRMAN THOMAS: Okay. So you are tied
9 in.

10 And I want to just close with
11 reiterating that Pennsylvania Department of
12 Transportation is not the problem. The United States
13 Congress and the Office of the President is where the
14 problem is. And I guess if Pennsylvania decides not to
15 comply then we would be urging the next president to
16 hear our cries; is that right?

17 MR. MYERS: Yes.

18 CHAIRMAN THOMAS: And we are all
19 partners in making sure that we do the right thing on
20 behalf of Pennsylvania. So we will have people out
21 there that have real concerns about this. We want to
22 hear your concerns, but we want you to focus the end of
23 the day concerns to the United States Office of the
24 President and to the United States Congress, especially

1 the 19 members who represent Pennsylvania. That's if
2 you believe that this is just bad law and Pennsylvania
3 should not comply with this law that is where you would
4 need to focus your attention.

5 Deputy Secretary, thank you.

6 Are there any other questions?

7 Thank you.

8 Next on our agenda today is Mr. Larry
9 Frankel from the American Civil Liberties Union. Mr.
10 Frankel, good morning.

11 MR. FRANKEL: Good morning, Chairman
12 Thomas. Thank you very much for letting me testify
13 today. Let me first make clear and as some of you
14 understand, I am now actually working for the ACLU out
15 of their Washington Legislative Office. Last week my
16 statement was I'm here on behalf of the ACLU of
17 Pennsylvania.

18 I guess they tried to keep me upstairs,
19 downstairs, I'm not sure which, but I'm bringing a
20 perspective to Pennsylvanian because I have been in
21 Pennsylvania and I continue to be a resident of
22 Pennsylvania but also shown respect for what is going on
23 in other states and you should rest assured that the
24 kinds of discussions we're having here are occurring

1 elsewhere. Some states have opted out already, some
2 states are looking at opting out.

3 Good day, Chairman Thomas and other
4 members of the Pennsylvania House Intergovernmental
5 Affairs Committee. My name is Larry Frankel and I am
6 the State Legislative Counsel for the American Civil
7 Liberties Union. Thank you for inviting us to
8 participate in today's hearing.

9 The American Civil Liberties Union's
10 opposition to the Real ID Act is well known. We have
11 spent considerable time studying the provisions of the
12 Act and its implications for the constitutional rights
13 of all Americans. Through our advocacy at the state and
14 federal levels, and through our website,
15 www.Realnightmare.org, we have made lawmakers and the
16 public aware of the substantial burdens that the Real ID
17 Act imposes on states and their citizens. These burdens
18 come in the form of: Enormous costs that are minimally
19 paid for by the federal government, this is a huge
20 unfunded mandate; massive invasion of everyone's
21 privacy; and the potential for Kafkaesque encounters
22 with the excesses of bureaucratic government.

23 Because the ACLU's general position is
24 so well known, I will focus my testimony on the recently

1 finalized Department of Homeland Security regulations
2 and their significant shortcoming when it comes to the
3 states. I will also talk about the relevant portions of
4 the most recent budget submitted by the Bush
5 Administration that demonstrate the continuing failure
6 on the part of this Administration to ask for the
7 necessary funding for implementation of the Real ID Act.

8 Finally, I will discuss a couple of
9 constitutional issues, one of which is of particular
10 relevance and significance to Pennsylvanians. On
11 January 11, 2008, the Department of Homeland Security
12 issued its final regulations for implementing the Real
13 ID Act. The Department had published proposed
14 regulations in March of 2007. The proposed regulations
15 generated more than 21,000 public comments that raised a
16 range of concerns. Unfortunately, the final regulations
17 fail to address the majority of concerns that were
18 raised. Cost of Implementing Real ID, One of the
19 biggest problems that the regulations fail to address,
20 is how states will pay for those measures that are
21 needed to come into compliance with Real ID.

22 The regulations acknowledge that
23 compliance carries with it significant cost and
24 logistical burdens, for which Federal funds are

1 generally not available. The Department estimates it
2 will cost at least \$9.9 billion to pay for Real ID.
3 This is a revision of their earlier cost estimate of
4 \$23.1 billion. As our analysis indicates, the
5 Department has relied on fuzzy math and questionable
6 assumptions to reach that reduced figure. A copy of
7 that analysis is attached to this testimony.

8 For example, although the Department
9 anticipates that a Real ID requirement will become
10 widespread throughout American society, they reduce the
11 cost by claiming that 25 percent of the country will
12 never bother getting a Real ID because they already have
13 passports. In this and other ways, the Department has
14 fudged the numbers in order to bring down the cost. It
15 is important to note, however, that to date, Congress
16 has appropriated less than 1 percent of the Department's
17 reduced estimate.

18 Information Technology Overhauls,
19 another significant problem is the impact that Real ID
20 will have on states' information technology systems.
21 The Act requires sweeping changes to state driver's
22 licenses and the systems by which those licenses are
23 administered. It imposes a requirement for uniform data
24 elements on state licenses. It also imposes a

1 requirement of information sharing among states'
2 databases. The regulations do not, however, provide any
3 guidance on how data sharing will be implemented.

4 Leaving this critical question
5 unanswered is another way the Department has attempted
6 to drive down the cost. What is unfortunately clear is
7 that the states will be forced to make expensive changes
8 to their information technology systems and in some
9 cases states will find themselves discarding many of the
10 recent improvements they have made. The Act and the
11 regulations will in effect coerce states into making
12 extensive overhauls of their information technology
13 systems.

14 Privacy, Because we do not know what the
15 infrastructure of the data sharing will look like, there
16 is no way to know how the privacy of Pennsylvanians'
17 personal information will be safeguarded. The
18 Department has been petitioned repeatedly by groups like
19 the ACLU and the Association of Computing Machinery to
20 create some sort of standard for protecting the data
21 that will be stored in the massive interlinked database
22 that will be created under Real ID. On this question,
23 the Department has punted over and over again. The
24 final regulations contain no national security plan for

1 Americans' personal information; instead they
2 hypothesize that the states will figure it out.

3 Further, the Department contemplates
4 that the American Association of Motor Vehicle
5 Administrators will operate the database. This private
6 association has no accountability to Pennsylvanians or
7 the American public. It is not bound by either the
8 Privacy Act, which applies to federal agencies, or the
9 Drivers' Privacy Protection Act, which applies to state
10 DMVs. From a privacy standpoint, this dodge on the part
11 of the Department is unacceptable. Re-enrollment Under
12 the final regulations, PennDot, like other DMVs, will
13 have to reprocess existing licensees. The regulations
14 acknowledge that all applicants will need to complete an
15 application process similar to those of a first time
16 driver. This means that PennDot will have to revamp how
17 applications for new licenses and renewals are handled.

18 Many of the Real ID requirements, such
19 as presenting source documents, verifying identity and
20 taking a digital photo, will require an in-person
21 application. Pennsylvanians will not be able to take
22 advantage of the recent progress made by PennDot that
23 allows them to use the Internet or mail. PennDot will
24 be swamped by its customers and there will be long

1 lines. And you will have angry constituents. PennDot
2 could also be overwhelmed by the need to develop and
3 maintain a document storage and retention capacity.
4 This will require additional staff, new equipment and
5 computer software, and the remodeling and redesigning of
6 numerous offices. This will also require extensive new
7 training in detection of fraudulent documents.

8 The Department's regulations impose on
9 PennDot and other DMVs the increased cost and burden of
10 this training without providing any funding to pay for
11 it.

12 Bush Administration Budget, as you
13 probably realize by now, implementation of Real ID is
14 going to cost a whole lot of money. And that is one
15 area where the Bush Administration has demonstrated its
16 true lack of interest in helping the states and shown
17 its willingness to pass on this unfunded mandate. The
18 President's Fiscal Year 2009 budget was its last chance
19 to get the funding portion of Real ID right. Instead of
20 asking Congress for the \$1 billion in startup funds,
21 that the National Conference of State Legislatures and
22 National Governors Association have repeatedly stated
23 are absolutely necessary, the budget contains only \$110
24 million, to be split between Real ID and other Homeland

1 Security programs.

2 The message is clear: The Bush
3 Administration cannot figure out how to pay for Real ID.
4 Constitutional Problems with the Act, the Real ID Act
5 burdens Americans' right to travel, which has been
6 recognized by the Supreme Court to derive from the First
7 Amendment. In addition, because a Real ID will be
8 required to enter a federal building, including a
9 courthouse, there are significant implications for due
10 process, the right to trial before a jury of one's
11 peers, and the right to petition government officials.
12 Instead of responding to these concerns, the Department
13 essentially threw its hands in the air, simply
14 disagreeing in its final regulations that these
15 requirements posed problems for the constitutional
16 rights of Americans, or saying that those problems were
17 a result of the statute itself and the Department was
18 unable to mitigate them.

19 One requirement of Real ID is of special
20 importance to our state. Real ID requires, without any
21 exemption, that a digital photograph appear on each
22 identification card. This requirement violates the
23 religious beliefs of many Amish and impacts on their
24 free exercise of religion. The Department's regulations

1 affirm that in order to receive a Real ID, every
2 applicant must have a photo taken. While the
3 regulations acknowledge religious objections, they do
4 not offer a real solution to this constitutional
5 problem. Instead they assert that states can provide
6 religious objectors with non-Real ID compliant licenses.

7 This is contrary to existing law in
8 Pennsylvania. 67 Pa. Code Section 73.3 provides: (D)
9 Exemptions. Exemptions include the following: (4) The
10 Department may also allow a person to apply for a
11 valid-without-photo driver's license in lieu of a
12 photographic driver's license upon certification that
13 having a photograph taken would violate the tenets of
14 the holder's religion or religious beliefs.
15 Pennsylvania is not alone in offering a religious
16 exemption to the photo requirement for ID cards.
17 According to our initial research, Arkansas, Colorado,
18 Delaware, Illinois, Indiana, Minnesota, Missouri,
19 Nebraska, North Carolina, Oregon and Wisconsin also have
20 a religious exemption to a photo ID requirement.

21 No Pennsylvania citizen, and indeed no
22 American, should have to choose between his or her
23 religious beliefs and the need to use an ID card to
24 freely move about the country, enter a federal building,

1 and operate in society in a myriad other ways.
2 Pennsylvanians should be able to freely exercise their
3 religion without being relegated to second-class status.

4 The conclusion, this is just a brief
5 review of our concerns about the Real ID Act. More
6 information on the ACLU's position on the Act and the
7 regulations can be found at www.Realnightmare.org.

8 In closing, let me say that we do not
9 believe that the Real ID Act can really be fixed. A
10 national ID card is inherently problematic for all the
11 reasons I've laid out. That is why seven states --
12 Georgia, Maine, Montana, New Hampshire, Oklahoma, South
13 Carolina and Washington -- have opted out of the
14 program. That is why we support Pennsylvania House Bill
15 1351 and Pennsylvania Senate Bill 1220 which would allow
16 Pennsylvania to also opt out of Real ID.

17 On the national level we support an
18 alternative to Real ID, the Identification Security
19 Enhancement Act S. 717 in the U.S. Senate and H.R. 1117
20 in the House. This bill addresses many of the problems
21 I have discussed. It would repeal Title II of the Real
22 ID Act of 2005 and restore a negotiated rulemaking
23 process set up by the Intelligence Reform and Terrorism
24 Prevention Act of 2004, which had already begun to meet

1 and set standards for securing driver's licenses and ID
2 cards when the Real ID Act stunted its progress.

3 That negotiated rulemaking process could
4 develop a plan for enhancing ID security faster than it
5 will take to implement Real ID, while respecting states'
6 traditional role in determining licensing rules and
7 protecting Americans' privacy. Real ID is indeed a real
8 nightmare, but it is one from which we can still wake
9 up.

10 Thank you and I will be happy to try to
11 answer any questions you may have.

12 CHAIRMAN THOMAS: Thank you, Mr.
13 Frankel.

14 Representative Melio, any questions?

15 Representative Gillespie?

16 REPRESENTATIVE GILLESPIE: No.

17 CHAIRMAN THOMAS: Representative Cohen.

18 REPRESENTATIVE COHEN: Thank you.

19 What do you see happening in Washington
20 on this. How much opposition is there?

21 MR. FRANKEL: I believe there is growing
22 opposition. I also believe people who study this more
23 fully understand the regulation could in fact be
24 interpreted as this current administration has funding

1 all down the road. What I am looking at, almost
2 everybody wants someone else to take the lead, but there
3 is, I think, a lot of consensus that because this is
4 complicated, confusing and cumbersome and questions keep
5 arising that we would be far better off to go back to
6 this kind of negotiating process where the states really
7 play a much larger role because they can bring the
8 practices that they have to down.

9 So I see, and this is only a prediction,
10 but much less who is going to be in charge of congress
11 in the next year, we may see a real willingness to
12 revisit the issue. It's not going to happen before
13 then.

14 REPRESENTATIVE COHEN: 2009?

15 MR. FRANKEL: 2009. I don't think it's
16 going to happen before then. Even the vote in congress,
17 they are voting against certain peripheral ways to
18 address Real ID, but I think once you have an
19 administration that is possibly taking the lead and
20 saying look there is a better way, we are all
21 interested, I don't think anyone is not interested in
22 having more safety and security, but there is a better
23 way and I think we just need to get into a new round of
24 discussions with the coming of the new administration

1 and leadership to the Department of Homeland Security.

2 REPRESENTATIVE COHEN: Thank you, Mr.

3 Chairman.

4 CHAIRMAN THOMAS: Thank you.

5 Representative Milne.

6 REPRESENTATIVE MILNE: Thank you, Mr.

7 Chairman.

8 Mr. Frankel, just in terms of the
9 privacy issue information that is of concern on the
10 privacy matter, do you find it is more the consideration
11 of the information has to be stored the states are
12 objecting to or is that the reciprocal layer information
13 across state borders, perhaps the transmission of
14 information?

15 MR. FRANKEL: I think it's more the
16 notion that states have their own law, policies and
17 regulations to protect the privacy of information that
18 is developed in response to the interest and the need of
19 their own citizens as well as possibly the agencies.

20 And I think the anger is that those laws
21 are just being overwritten and that while we may have
22 developed -- and I would say that my 15 years of lobbying
23 Pennsylvania legislation, it will be more successful --
24 Pennsylvanians having their high expectation privacy

1 with regard to information acquired in our experience to
2 open records and the changes we made in the last week,
3 like that concern as well.

4 That's what going on in other states.
5 They hear that we're going to the lower common
6 denominator in terms of privacy detection because of the
7 answer linking up the database.

8 While my state becomes good law, we're
9 going to depend on other states' law for that it. The
10 state could have sovereignty. Remember driver's license
11 has traditionally been a function of the state, one I
12 think many states are very proud of, and in that regard
13 I think it's also a tension between the federal mandate
14 and rules for these states.

15 REPRESENTATIVE MILNE: What is your
16 experience in terms of insurance? What do you admonish
17 in regards to Pennsylvania in line with other states in
18 their leadership role?

19 MR. FRANKEL: My experience, our wire
20 tap situations, we have one of the strongest wiretap
21 laws in the country. The legislation, I would say, even
22 largely result in being sent around. I remember,
23 because I wasn't as vigorous and I should have been, it
24 was a combination of Pennsylvania State and the State

1 Police who were trying to do a survey out somewhere in
2 the Western part of the state. In order to do the
3 survey, they were diverting people off the highway and
4 asking them to do a survey.

5 I remember being called in and being
6 asked, Doesn't this violate our rights? It's only a
7 survey. I said, I don't know why they would think they
8 would get the right answers to the survey because people
9 were angry they got pulled off the side of the road. It
10 was like within 2 days they stopped it because the
11 uproar from the citizens. This was an invasion of their
12 privacy for them to be conducting this survey.

13 I think just even the final work on the
14 open records law, where some changes were made with the
15 bill that had come back from the Senate to provide
16 greater protection and privacy of information was
17 directly (inaudible), not resulted in any lobby. One
18 thing they care about in leadership is that the
19 information they provide to government is either to the
20 direction of the answer that immediately impacts their
21 life or is going to be shared for others.

22 REPRESENTATIVE MILNE: Thank you very
23 much.

24 CHAIRMAN THOMAS: Chairman Steil.

1 REPRESENTATIVE STEIL: Thank you, Mr.
2 Chairman.

3 Larry, I think you indicated that a dual
4 system is not something that you actually looked at.
5 Could you just tell me why?

6 MR. FRANKEL: Well, a dual system is if
7 you are asked to -- say, if I decided not to get a Real
8 ID, what does that do for my constitutional rights?
9 AMTRAK is going to be asking for the Real ID. I'm going
10 through a federal building, if you are going through the
11 federal building, you're the party of a lawsuit because
12 you have been called to jury duty, you will not be able
13 to serve on the jury. Well, I'm going to give up my
14 right to be sued. It's those kind of complications that
15 I think you end up with with a dual system.

16 There are certain rights, right to
17 travel, right to petition government, rights with regard
18 to fair trials that really, I think, somebody has to
19 say, I opt not to go ahead with the Real ID. Am I
20 really going to give up all of that? And I don't think
21 we want to pose that question to Americans particularly
22 since the act itself says that the places where Real ID
23 can be required, that list can be expanded over time.
24 We don't know.

1 What's in the statute now, it
2 specifically states that's where it's going to be. Then
3 to ask a citizens of this Government to say contract
4 with the government for the next 10 to 5 years where
5 else are you going to need the Real ID? To vote? Then
6 the dual system really becomes very problematic in that
7 regard. I just don't see how you set up a dual system
8 that doesn't put certain people, whether it is for
9 religious reasons where they're in that difficult
10 position of saying how many of my rights am I willing to
11 give up. I don't think we want that.

12 REPRESENTATIVE STEIL: If I'm
13 understanding correctly, though, the purpose of the Real
14 ID is to ensure an easier process for access, whether
15 it's a federal building, nuclear power plant, air travel
16 or whatever as opposed to a process which is to require
17 multiple forms of identification, driver's license plus
18 passport, something else. It's a process by which one
19 eases into the transition into those buildings and makes
20 it especially advantageous for those who must regularly
21 enter those buildings.

22 MR. FRANKEL: I will check for you, but
23 my recollection is that what they are saying if you want
24 to access that building you must show this form of

1 identification there is not an alternative. I think the
2 airplane, you can use a passport, I don't know. And I
3 would have to look. I don't know if they are saying the
4 passport is okay to get into a federal building.

5 REPRESENTATIVE STEIL: My understanding
6 is another federally accepted form of identification
7 will also permit you access into a federal building or
8 any place that requires ID now. Even a passport cost
9 you more than \$26.

10 REPRESENTATIVE STEIL: On one hand it's
11 an easier way to do it with the Real ID. It's a little
12 more difficult if you want to do it, but it is still
13 possible to get into that building so no one is denied.

14 MR. FRANKEL: Can I respond to that? No
15 one is denied. Why? For no other reason to get a
16 passport or another form of federal ID. We, in this
17 country, has a system where you have to go get that
18 which violates these other constitutional rights.

19 I think that it's a very dangerous road
20 to go down. I think the Department, by suggesting that
21 as an alternative system that's acceptable, that's
22 really surmising how many people's protective rights
23 could be interfered with by that decision.

24 Trying to get a passport now could take

1 you months and you have no other form of federal I.D.
2 they are supposed to give up all their rights for a
3 period. I don't think, particularly, because there was
4 an attempt in place before that was working trying to
5 improve the quality and security.

6 REPRESENTATIVE STEIL: Actually, that
7 will segue into my last question. And that question is,
8 there is a responsibility for any level of government
9 whether state, local or federal to ensure that the
10 opportunity of a visitor to a particular building under
11 their control or other form of transportation or
12 whatever under their control is safe and secure. So how
13 does one balance the constitutional right of access
14 against all the rights to be reasonably secure and safe?

15 MR. FRANKEL: Well, the federal building
16 down the street we have formality. Also there is some
17 sense about that that's a more reliable system. I don't
18 think the ability to obtain an identification card from
19 the Department of Motor Vehicles should become the basis
20 upon whether we determine whether somebody is safe to
21 let that person in the building, even if they have no
22 record or anything in their background the day before
23 their license is given to them, people do change.
24 Things do happen.

1 And I would submit if we are looking at
2 a safety and security issue that there are far more
3 rational ways to obtain -- I mean to target people who
4 really want to do harm. They found out many of them
5 have passports. They can get on the planes because they
6 have passports. They didn't need driver's licenses to
7 get on planes. I think we have to approach this in a
8 way that really looks at what is it that threatens
9 security and how can we stop people from threatening us.

10 In an office building you have to show
11 your photo ID to get in, now you have an alibi. Is that
12 any way to determine that I'm a person who is safe to go
13 in that building? I don't think it is.

14 And we all know incidents where crimes
15 have been committed by people who safely entered the
16 building and had the proper identification.

17 And I thank you for allowing me the
18 opportunity. I think that really shows the fallacy of
19 this. The ability to get the driver's license by
20 showing all the right documentation is really not
21 evidence that anybody is not a threat. I don't think it
22 is very satisfactory evidence and I think we have enough
23 history to know it is not satisfactory.

24 REPRESENTATIVE STEIL: I suspect the

1 metal detectors won't go away with the Real ID system.

2 Thank you, Mr. Chairman.

3 Thank you, Mr. Frankel.

4 CHAIRMAN THOMAS: Let me thank all of
5 our presenters for their testimony. It is about 12:15.
6 I would like to devote at least a few minutes to our
7 guests here. We have two people who would like to
8 provide limited testimony.

9 Mr. Daniel Moyer from Nickel Mines,
10 Pennsylvania and Janice Winston from Philadelphia.

11 MR. DENECA: Thank you, Chairman Thomas,
12 Members of the Committee and thank you citizens of
13 Pennsylvania.

14 Before I start I would just say one
15 thing. I did go down that trail. I lived in Argentina
16 for two years during the revolution. This will be my
17 analysis. I will tell you there is a way out Homeland
18 Security, notwithstanding, you bribe your way out. It
19 just goes down to the next level.

20 Thank you for listening. I won't take
21 much of your time. I want to bring up a couple of
22 points from a diverse perspective that might present
23 this issue in a different light. I maintain there are
24 many misfortunes if we don't stop this pattern here and

1 now. What I see on the fallacy of this issue is pure
2 obstination. The solution in search of a problem is the
3 cart before the horse or the plan before the need, the
4 government in search of an opportunity where its people
5 are collateral victims. This is not the type of
6 government that I was taught about in catholic school
7 and in Vietnam.

8 In spite of my catholic schooling, I
9 look forward to returning to my golden years. Now it's
10 looking like we should set up some sort of exchange
11 program with Mexico where they send us labor, as we do
12 now, and they take our retirees.

13 It is the true purpose of the NAFTA plan
14 -- any of you vote for NAFTA in the Senate hearings? I
15 faught to defend the constitution whether from within or
16 without. I took it seriously. It is perhaps much more
17 difficult to determine the specific --

18 CHAIRMAN THOMAS: Excuse me. I
19 appreciate your testimony. Can we kind of stick to the
20 facts. Are there any congressional representatives
21 here? Is there anybody here from the United States
22 President's Office here?

23 This is federal law that we are talking
24 about and we are here because we want to educate the

1 public policy makers and all concerned citizens about
2 the existence of law policy and what we can do. The
3 fact we are here, we are here because we care and we
4 want to make sure Pennsylvanians are involved in our
5 decision making.

6 If there are facts we can kind of stick
7 with that I will appreciate it.

8 MR. DENECA: I tried five times to get
9 articles into the Enquirer about the re-election. It
10 just does not -- I understand what the premise is behind
11 the Real ID but I don't think it's in keeping with
12 citizenry. It seems like the cost is a trade of all the
13 citizens and they want to tag us. I worked on farms and
14 they tag cows. There is too much information that is
15 not necessary to driving or (inaudible).

16 I think that's what we are coming to,
17 the government being afraid of its citizens.

18 CHAIRMAN THOMAS: Trust me, at some
19 point the executive branch and the legislative branch is
20 going to read some opinions on compliance versus
21 non-compliance and ultimately -- largely to a large
22 degree, we will govern by what we hear at these public
23 hearings and what we get in our office.

24 Thank you.

1 Ms. Janice Winston, and we will
2 conclude with Mr. Moyer.

3 MS. WINSTON: My name is Janice Winston
4 and I'm just a Philadelphia resident. I happened to be
5 listening to WURD and heard about this hearing, which I
6 thought was over in the City Council hearing room, but I
7 say that to say that I thought that there would be many
8 people here on this issue.

9 I'm sad that there is not because after
10 sitting here and listening to this testimony, people
11 should be concerned and I'll put that mildly. I feel
12 that we have a passport system. We have a driver's
13 license system, how much more do we have to give of
14 ourselves to have to be an American citizen to be tagged
15 as an American citizen. Everything we have to do we
16 have to provide identification for.

17 Somewhere in Washington, there is a
18 whole lot of information floating around.

19 In this document it said that 82 percent
20 of the American people are in favor this. This poll was
21 done in September of 2007. Now I know enough to know
22 that if you present the question the way you want the
23 answer, you get the answer you want. So I want to
24 discount this poll and say is it possible to put this as

1 a ballot question to the people to see whether they want
2 it so the people can be counted as opposed to a poll to
3 see whether Real ID is really something that the
4 American people want.

5 And as for the people in Pennsylvania
6 we, from what I understand and what I'm not hearing, if
7 we do not do this, is there a penalty? Is there some
8 other moneys that will be taken away from us in some
9 other program?

10 I heard that the federal government does
11 that from time to time, they will penalize states which
12 don't comply. So if we do not comply is there a
13 backlash that we will receive from the administration?
14 Because we are changing administrations, I realize this
15 isn't the question that this administration -- that may
16 go to another one.

17 I don't have a written speech so I'm
18 here to talk off the top of my head and I'm not going to
19 belabor the issue, but I will say that we really need to
20 get people on board for this, and I appreciate you
21 having this hearing, and I appreciate you going on the
22 radio and trying to get people interested in it, but as
23 I was out not hallway I was talking to my Council
24 person, Councilwoman Donna Reed-Miller, and she's

1 concerned.

2 And I'm quite sure that anybody who
3 picks up that document and starts reading it cover to
4 cover, which we know a lot of people won't, but this has
5 to be addressed, and this information has to get out to
6 everyone. So I am asking that all of you that you
7 continue to have these hearings and continue to get
8 enough people on board to what is really going on.

9 I'm not saying people want it or don't,
10 but don't think enough people know the details in the
11 document enough to know what we are really getting when
12 they talk about this issue.

13 Thank you very much.

14 CHAIRMAN THOMAS: I agree and I want to
15 turn to Representative Cohen in one minute. I want to
16 answer a couple of things that you said, one, in back of
17 you is a young lady, please make sure they have your
18 address and telephone number before you leave.

19 It is possible for us to do a hearing
20 out in the community. I'm not upset that there is not a
21 whole lot of people here this morning. I know that the
22 Council Committee was doing a hearing around subprime
23 homes, which I know is off the radar screen in
24 Philadelphia, and I don't see this hall packed and

1 that's not to say there are a not a lot of people that
2 are not impacted by subprime lending.

3 That is not to say there are not a lot
4 of people that are not affected by Real ID, especially
5 folk coming out of correctional institutions, that's a
6 whole other hearing we have not talked about. We can,
7 with your help, do something in the community to
8 continue to put the information out.

9 I believe March 11th or 12th we will be
10 in Pittsburgh and then sometime in May we will be in
11 Erie, May 9th, we will be in Erie, Pennsylvania and we
12 have decided to go out, put the information out because
13 either way we are going to be affected.

14 MS. WINSTON: I just have one other
15 question, if I may. The cost of this, and I think it's
16 a federal mandate, so Pennsylvania will have to pick up
17 the cost to this?

18 CHAIRMAN THOMAS: If the federal
19 government does not provide sufficient or additional
20 funding for implementation, then you and I and all the 9
21 million people who have a driver's license and or
22 non-driver's license will have to pay the cost.

23 MS. WINSTON: I appreciate your having
24 the hearing across the county and I will be following.

1 can earn our living. Some of us live in rural and
2 suburban areas and need to drive vehicles to provide for
3 our families and to serve God. Driving a vehicle is not
4 a luxury or a government handout. We do not desire
5 government money or handouts.

6 It is our understanding that the Real ID
7 will prevent us from getting driver's licenses. Some of
8 us do not have Social Security numbers for religious
9 reasons. PennDot is presently denying driver's licenses
10 to my three children, who are eligible to drive, the
11 eldest being 24 this year, in violation of PA law
12 Section 1510, Subsection F, in the PA vehicle code.

13 Legislative offices have told us that
14 the Real ID is looming over PennDOT's head causing them
15 to drag their feet with us. How are we going to exist?
16 In the Amish schoolhouse shooting of 2006, the gunman
17 would not have been stopped from killing and wounding
18 the girls with the Real ID in effect. These girls were
19 my Amish neighbors.

20 Do you really want to force law-abiding
21 citizens, who drive on the road to earn an honest
22 living, to decide between their religious beliefs and
23 becoming criminals?

24 Thank you.

1 CHAIRMAN THOMAS: Thank you for your
2 very pointed testimony.

3 Mr. Law.

4 MR. LAW: Thank you for holding these
5 hearings. I am Tsiwen Law, Chair of the Civil Rights
6 Committee and the Pennsylvania Bar Association.

7 After hearing Deputy Myers testimony, I
8 was interested to know whether there is, in the
9 projected budget, a training program on the issue of
10 who's legally here because there are 42 different visas
11 that apply to non-citizens. Do you plan to train them
12 about what is pending legal status?

13 For example, we had a case up in
14 Hazleton where the Mayor had said that the witnesses who
15 are willing to testify that they had observed this
16 undocumented person, who were also undocumented, but
17 because they are having pressure to report them, the
18 witnesses who reported it now normally they would be in
19 the prosecutor's office or somebody to apply for a
20 status T-visa to allow the witnesses to stay here
21 pending the trial so they can be available to testify.

22 It looks as though through the
23 regulation that your employees have to determine what is
24 pending status. And pending status may not be something

1 that's verifiable in the verification system that is set
2 up for employment purposes.

3 For somebody who is here to be available
4 for a trial testimony, I'm sure not as to whether any
5 component has been looked into the budget that you are
6 thinking about the time or what plans. You have to look
7 at that because it's a significant aspect of what is
8 going to be part of the person who examines the person
9 coming in applying for the license. I don't know
10 whether there was planning to call up a lawyer to find
11 out if the application is in because sometimes these
12 visas take time before they are granted, they are
13 legally here.

14 REPRESENTATIVE MEADOWS: You are
15 correct.

16 The expectations of employees is
17 substantial today when it comes in various forms that we
18 see, not only in the United States but also outside of
19 the United States and the documents that come in within
20 the Real ID regulation there is a requirement that all
21 field staff go through fraud training to recognize
22 fraudulent documents.

23 So that is part of our cost that we have
24 from the standpoint to move forward to try to determine

1 the cost of trainings. It certainly is an integral part
2 of that. Yes, you're absolutely right. Training is a
3 large part of our budget.

4 MR. LAW: I raise this question, it's
5 not just a philosophical or academic question about
6 federal versus state authority issue about driver's
7 license but in practical significance it affects these
8 departments.

9 CHAIRMAN THOMAS: I agree and we have
10 received a lot of information this morning and this
11 afternoon on why we need to take a close look at this
12 Real ID law, and at some point, before it's too late,
13 make some decision about where Pennsylvania is going to
14 be.

15 And as I started out, there is
16 populations of Pennsylvania who live in urban, suburban
17 and rural Pennsylvania that are going to be adversely
18 affected by any level of implementation that requires
19 them to be impositioned all over.

20 We have the secondary problem of whether
21 or not the system that is being utilized in Pennsylvania
22 is one that is going to achieve the outcome or goals of
23 the Act itself. And the Act came about as a result of a
24 letter designed to provide security, and we are going

1 through this because ultimately we want to minimize, if
2 not eliminate security risks.

3 It is clear to us that there might be
4 some question about whether or not this system is the
5 best system that can be utilized to deal with those
6 security risks.

7 And last but not least will
8 implementation or will this all end up, in fact, amount
9 to systemic interference with rights that we have all
10 come to know and appreciate, right to travel, right to
11 jury, right to -- number of rights that we have all come
12 to accept, love and appreciate in this great land called
13 America.

14 Will Real ID interfere with one of
15 several of those freedoms as we have known them? We
16 know there will be some interference, but will this be
17 tantamount to structural interference to those freedoms?
18 Our message to the public, one, if you don't know where
19 your birth certificate is, get it. If your birth
20 certificate was issued at a time when we didn't have a
21 Bureau of Vital statistics, there is something called
22 the delayed birth certificate. Connect with your State
23 reps, your State Senators, connect with local
24 municipalities who now have offices of vital statistics

1 that can help you get that information, your Social
2 Security card, other ID that identify who you are. Get
3 that information, put it up because that information is
4 going to be extremely critical whether or not
5 Pennsylvania decides to comply with the Real ID law.

6 Focus in on the law, get your
7 information together and our doors are open for input,
8 comments from you and at some point before December of
9 2009, we are going to take an affirmative position, but
10 it's important to point out that if you are not granted
11 an extension, like we have in Pennsylvania, May 11th is
12 your date.

13 If you live in New Jersey, and New
14 Jersey has not been granted an extension, May 11th your
15 license is no longer relevant. You are going to have to
16 do something. If you live in New York, you live outside
17 of Pennsylvania or in a state that has not received an
18 extension or who's even decided not to comply, there are
19 consequences for behavior. So we wanted you to not only
20 get your business in order, but also share this
21 information with relatives and friends that you might
22 have living in other states where you drive or carry a
23 non-driver's identification as their official form of
24 identification.

1 Is that okay? Again, let me thank our
2 guest, the Pennsylvania Department of Transportation,
3 National Conference of State Legislatures and let me
4 thank my staff for your packet of the good outline of
5 Real ID.

6 Let's give them an applause.

7 (Applause)

8 CHAIRMAN THOMAS: I thank my colleagues
9 for joining us Representative Mark Cohen,
10 Representative Steil and Milne and Representative Mileo
11 and Representative Gillespie. We will see you March
12 13th in Pittsburgh at the University of Pittsburgh.

13 (Whereupon, the above-entitled matter
14 was adjourned at 1:15 p.m., this date.)

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I hereby certify that the
proceedings and evidence are contained
fully and accurately in the
stenographic notes taken by me on the
hearing of the within cause and that
this is a correct transcript of the
same.

VIRGINIA JONES-ALLEYNE
PROFESSIONAL COURT REPORTER