

Testimony before Revenue Stabilization and Tax Policy Committee

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Thank you Mr. Chairman and members of the Committee for having me here today to discuss one of the most prominent and disturbing federal-state initiatives of recent years, the Real ID Act. My name is Jay Stanley. I'm the Public Education Director of the ACLU's Technology & Liberty Project.

The ACLU believes that the entire concept behind Real ID is flawed. We think it is a de facto National ID, one that will restrict people's movements and liberty. We also believe it will cause numerous other invasions of privacy and increase identity theft and discrimination. We have been pleased to find support for our views on this from across the political spectrum, from privacy and immigration groups to conservative and gun control groups, to such bodies as the Santa Fe City Council, which passed a resolution last year opposing the driver's license application procedures established by Real ID.

But those aspects of Real ID are not what I've come here to talk about today. Instead I will direct my remarks to the subject of this committee's interest – the significant cost and implementation issues of Real ID for New Mexico residents, drivers, and state officials. Real ID will require a complete restructuring of the licensing process – costing the state millions and increasing the cost and inconvenience of receiving a license for all drivers.

New Mexico is not alone in grappling with these problems. Last year, in a survey conducted by the American Association of Motor Vehicle Administrators (AAMVA), state officials used words like “impossible” and “nightmare” to describe the Act's provisions.

Perhaps the greatest cautionary tale comes from Alabama, where the state has actually attempted to implement a portion of the Act: the requirement that names on compliant driver's licenses must precisely match individuals' names as held by the Social Security Administration. The result, as described in the attached article, was a fiasco. Thousands of panicked Alabama residents jammed motor vehicle offices worried that they would lose their right to drive. And, because the state began its records review with the oldest records, many of the reported 65,000-80,000 drivers who got letters were senior citizens. Some elderly drivers were also reportedly worried that their Social Security checks or pensions would be interrupted if they did not “fix” the problem right away.

People waited *days* to get changes made. One 70-year-old woman had to go to the motor vehicles office for three days straight, the AP reported, finally obtaining a new license on the third day after a two-and-a-half-hour wait. Then, she was asked to pay an \$18 fee - the state's standard payment for a new or duplicate license – and she “hit the ceiling.”

The changeover has also been beset by other problems including computer failures and confusion over what the “correct” information was that they were supposed to supply.

New Mexico is likely to encounter problems with Real ID in 3 main areas: administrative burden, cost, and burden to their citizens.

I. Administrative Burden

In the AAMVA survey, New Mexico MVD officials identified numerous Real ID requirements that will necessitate additional funding and legislative support. In the section of the survey dedicated to states’ questions about implementation procedures, New Mexico officials asked simply, “**Where is the funding coming from?**” The following areas were identified in the survey response as likely to be significant problems for the state and require a substantial investment in resources to comply with.

- **Verification** – New Mexico officials describe verifying source documents as an area of major impact in terms of cost and changes to state law. This is in spite of the fact that the state assumes that AAMVA or the federal government will build electronic systems for verification. Currently such systems do not exist for most of the information – for example, birth certificates, principal address – that needs to be verified under the system (and the requirements for building such systems, such as scanning every birth certificate in America, are very burdensome). Manual verification would be a nightmare involving contacting multiple issuing agencies and verifying source documents for every single applicant.
- **Document Storage** – Scanning and saving all the source documents for New Mexico residents will have a major impact. The MVD reports having no budget for this, and wonders whether it is legal under federal law for MVDs to copy any document used in the issuance of driver’s licenses and IDs. Assuming such copying is legal, the MVD will “need legislative support for funding to develop and maintain the entire system, which will cross several public/private entities.” Simply to retain paper copies of source documents, without any digital capture, may require the MVD to increase space and staff, creating additional need for funding from the legislature.
- **Linking Motor Vehicle Databases** – Real ID requires states to provide each other with electronic access to the wide variety of motor vehicle information that states currently maintain. This will necessitate hiring new IT staff, developing and implementing a system for sharing information, and training all current MVD employees to use it. New Mexico officials have stated that they do not know what level of funding will be needed to accomplish this. Other states have suggested that meeting this requirement will prove impossible – requiring all state systems to share a common design. Instead, many suggest the use of a “pointer” system that contains a limited amount of information and directs information seekers to the appropriate state. A current, much smaller, pointer system for the

records of commercial drivers costs approximately \$1 a driver, a year to maintain. There are approximately 1,236,488 drivers in New Mexico.¹

- **Temporary Licenses** – New Mexico is one of several states that have struggled with the question of whether to grant licenses to undocumented persons. Throughout its AAMVA survey response, MVD officials expressed concerns about the “political sensitivity” of many of the Real ID requirements relating to this issue. Instead of clearing up state-by-state confusion about this difficult and contentious issue, Real ID will force the New Mexico legislature to hand down a rushed, divisive policy. MVD expects that this issue could delay implementation of Real ID, a result that could wreak havoc on the travel activities of New Mexicans.

II. Cost

Of course compliance with all of these new administrative requirements will be expensive. Almost all these costs will have to be born by the state and its taxpayers. The current Department of Homeland Security budget for 2006 contains only \$40 million to help states comply with Real ID and President Bush’s Fiscal Year 2007 budget contains only an additional \$24 million. This federal funding will only be a drop in the bucket of total Real ID costs.

New Mexico has not yet undertaken a comprehensive study to determine the financial impact of Real ID on the state. However, based on the projections of national organizations and other states, we make a decent guess at what the price tag will be. The National Conference of State Legislatures has estimated that Real ID will cost between 9 and \$13 billion nationwide. Based on the number of licensed drivers in New Mexico, 1,236,488, compared with the total number of US drivers (196,165,667 according to the US Department of Transportation), that suggests a **total cost of between \$56 and \$82 million or \$46-\$66 per license** (New Mexico currently charges a \$16.00 fee for license renewal; under Real ID, this cost could increase by up to \$50).

The nationwide estimates generated by NCSL are backed up by assessments conducted by four states, California, Virginia, Pennsylvania and Washington State. California estimated its total costs for Real ID to be between \$528 million and \$754 million. Virginia estimated that it would have one-time costs of between \$35 million and \$169 million and recurring costs of between \$5 million and \$63 million. Pennsylvania estimated its cost at \$85 million over 6 years. Washington State, considered to have conducted the most comprehensive study, placed its cost of compliance at \$251.1 million over 6 years. Utilizing the same cost estimates as Washington, **New Mexico’s total costs would be approximately \$70.5 million, or \$57 per license.**

¹ 2004 statistics. Source: US Department of Transportation. See <http://www.fhwa.dot.gov/policy/ohim/hs03/pdf/dl22.pdf>.

III. Burden on Citizens

- **Longer waits.** As demonstrated by the Alabama fiasco, Real ID will almost certainly have a dramatic impact on the wait time for gaining a license. Simply updating records and assuring compliance with the Act for --- drivers is certain to strain whatever resources are dedicated to the problem.
- **No more same-day licenses.** Extensive document verification requirements make it unlikely that most individuals will be able to receive a license the same day in which they apply. Internet transactions may also be curtailed.
- **Real ID Tax –** As noted above, Real ID could easily cost every New Mexico driver considerably more to receive their license. In spite of the fact that Real ID is a federal initiative responsibility for this “Real ID tax” is likely to be placed at the feet of state lawmakers.
- **Some drivers won’t be able to get a license.** While officials aren’t currently talking about this problem, the fact is that because the Real ID requirements are so stringent, it is a real possibility that some people will not be able to get licenses. Not everyone has a birth certificate. From some Native Americans to victims of Hurricane Katrina some people were either never issued birth certificates or have seen them lost though to disaster or other circumstances. Because a passport is the only foreign document that can be used under Real ID folks were born or raised in foreign countries will face special difficulties. Other individuals will run into a bureaucratic nightmare due to computer or human errors. Any of these things could render a person unable to get a Real ID.

IV. Conclusion

As I hope is clear Real ID will be a Real Nightmare. It will be exceeding complex and costly for New Mexico to implement, requiring substantial time and expertise from state officials. All of this will be expensive with the cost born almost exclusively by states and drivers.

It needs to be emphasized that there is no need for New Mexico to do anything precipitous. The regulations that will answer many of the outstanding questions and will be binding on the states have not been issued. They probably won’t be issued until late in 2006.

The regulations will undoubtedly draw criticism from state officials and organizations across the political spectrum, and calls for revision. It is a fair assumption that the Congress will have to revisit this issue. It would be a mistake for any state – especially our largest – to act prematurely and spend what could be hundreds of millions of taxpayer dollars before we know specifically what will be required.

This is one of those times when the devil will be in the details, but the details don't yet exist.

Additional Resources:

Information on the AAMVA survey and New Mexico's replies is available at:
<http://www.realnightmare.org/about/85>.

Additional information on problems in Alabama is available at:
<http://www.realnightmare.org/about/4>

Cost estimates for Virginia, Washington State and Pennsylvania are available at:
<http://www.realnightmare.org/resources/88>.

A detailed report on the problems with Real ID from a state task force in Virginia is available at: <http://www.realnightmare.org/news/16/#Warner>.