

Dear Senator Frist:

We write to express our strong belief that substantive provisions from the REAL ID Act of 2005 should not be enacted as part of the supplemental spending measure Congress is considering. In particular, we strongly oppose provisions of the REAL ID Act that would repeal the identification standards recommended by the 9/11 Commission and enacted last December as Section 7212 of The Intelligence Reform and Terrorism Prevention Act of 2004.

The Intelligence Reform Act requires federal minimum standards that will ensure State-issued documents are secure and identities are verified. The provisions were enacted last year with the support of the Administration as well as the 9/11 Commission. State governments are particularly vocal in their opposition to the REAL ID Act provisions, which would impose rigid and unrealistic mandates on their processes for issuing drivers' licenses. In fact, the REAL ID Act provisions would be so difficult for states to implement, the bill would undermine an initiative that can make the nation safer from terrorism.

Last year Congress enacted Section 7212 of the Intelligence Reform and Terrorism Prevention Act in response to a recommendation of the 9/11 Commission:

Secure identification should begin in the United States. The federal government should set standards for the issuance of birth certificates and sources of identification, such as drivers' licenses. Fraud in identity documents is no longer just a problem of theft. At many entry points to vulnerable facilities, including gates for boarding aircraft, sources of identification are the last opportunity to ensure that people are who they say they are and to check whether they are terrorists.

Section 7212 requires the Department of Transportation, in consultation with the Department of Homeland Security, to establish minimum standards for drivers' licenses and personal ID cards issued by states. The standards will address the documentation required to prove an applicant's identity; verifiability of documents used to obtain a driver's license; safeguards in processing of applications to prevent fraud; and security features to ensure that drivers' licenses and personal identification cards are resistant to tampering, alteration or counterfeiting. The Department of Transportation has already begun the regulatory process that will result in new standards for drivers' licenses, on an expedited timetable required by the Act.

In passing Section 7212, Congress recognized that issuing drivers' licenses is a traditional state function, and the Intelligence Reform Act guaranteed input from state governments when the regulations are being drafted. The Act requires that the regulations be developed through a negotiated rulemaking, and that representatives of state governments participate in the advisory committee that establishes the regulations. State governments strongly prefer this approach, and in its Statement of Administration Policy, dated October 7, 2004, the White House emphasized the importance of consultation with states as one reason for endorsing the Senate provision on drivers' licenses over House provisions identical to those in the REAL ID Act.

Title II of the REAL ID Act would repeal the Intelligence Reform Act provisions and replace them with expensive, prescriptive, and unworkable federal mandates for state issued drivers' licenses and ID cards. Under the House bill, state governments would be denied the seat at the table afforded by the Intelligence Reform Act. The House legislation is opposed by the National Governors Association, the National Conference of State Legislatures, the Council of State Governments, and the American Association of Motor Vehicle Administrators.

As these leading state government organizations have noted in correspondence to Congressional leadership, the REAL ID Act imposes mandates on state governments that are beyond the current capacity of even the federal government. For example, the House bill requires verification of birth certificates without providing the time or resources needed to digitize hundreds of millions of paper documents. That requirement alone would lead to huge delays at state DMVs for all applicants. The REAL ID Act would compel state DMVs to establish applicants' federal immigration status without providing states the necessary reliable and verifiable information to do so. And it would over-ride states' traditional prerogative to make public safety determinations regarding who should be eligible for drivers' licenses.

We urge you to ensure that this controversial House legislation not be added to an important supplemental spending bill that supports our troops in Iraq and funds aid to tsunami victims. The REAL ID ACT will not enhance our safety. In fact, by repealing a provision enacting a central recommendation of the 9/11 Commission, in favor of unworkably rigid federal mandates, it would jeopardize an initiative that can make the nation safer from terrorist attack.

Sincerely,

John E. Sununu
UNITED STATES SENATOR

Joseph I. Lieberman
UNITED STATES SENATOR

Lamar Alexander
UNITED STATES SENATOR

Richard J. Durbin
UNITED STATES SENATOR

cc: The Honorable Thad Cochran
The Honorable Wayne Allard
The Honorable Robert F. Bennett
The Honorable Christopher S. Bond
The Honorable Sam Brownback
The Honorable Conrad Burns
The Honorable Larry Craig
The Honorable Mike DeWine
The Honorable Pete V. Domenici
The Honorable Judd Gregg
The Honorable Kay Bailey Hutchison
The Honorable Mitch McConnell
The Honorable Richard C. Shelby
The Honorable Arlen Specter
The Honorable Ted Stevens