

Opening Statement of
Senator Susan M. Collins

**“Identification Security: Reevaluating the REAL ID
Act”**

Committee on Homeland Security and Governmental Affairs
July 15, 2009

★ ★ ★

One week from today, we mark the fifth anniversary of the release of the bipartisan 9/11 Commission Report. In examining how terrorists were able to attack America, the Commission found that all but one of the 19 terrorists used drivers’ licenses to board the planes that were used as weapons in the attacks that killed nearly 3,000 people.

The commissioners recognized that easily obtained drivers’ licenses were a security vulnerability, stating, “For terrorists, travel documents are as important as weapons.” And to address this vulnerability, the

Commission recommended that the federal government set standards for the issuance of birth certificates and other sources of identification, particularly drivers' licenses which had proven vital to the terrorists' ability to carry out their deadly plot.

To call the effort to implement this recommendation "difficult" would be an understatement. Senator Lieberman and I authored provisions in the Intelligence Reform Act of 2004 that established a collaborative committee comprised of federal and state officials, technology experts, and privacy advocates to develop these secure identification standards. Regulations were already being developed in early 2005 when, unfortunately, the House of Representatives repealed these provisions by slipping the REAL ID Act into an urgent war funding bill.

Then, for more than two years, states were left to contemplate the enormity of the task of reissuing new licenses to all drivers by May 2008 while they waited for the Department of Homeland Security to issue the regulations that would tell them how to achieve that requirement. And they waited... and waited... and waited... until January 29, 2008, when a final rule was issued, leaving the states just 103 days until the May 11, 2008, compliance deadline set by the Act.

Complicating the problem, state budgets had little room for the hundreds of millions of dollars it would cost to implement these regulations – and a faltering economy only worsened the financial strain. Another problem was that key information technology systems necessary to implement the law efficiently were not readily available.

And although identity theft costs the economy billions of dollars and causes much distress to its victims, the Department's regulations failed to address critical privacy issues created by the interconnected systems of databases mandated by the law.

With these problems unresolved and numerous state legislatures protesting REAL ID - or even outright refusing to implement the program - I worked to persuade the Department to provide states an additional 18 months to meet the REAL ID deadline, giving us all time to revisit this issue.

The PASS ID Act that we are discussing today is one attempt to resolve the problems I have described. It refines rather than repeals the law and targets areas where that law imposed unreasonable and costly burdens on states, failed to protect the privacy interests of our

citizens, and mandated technical solutions that may not be practical.

One example of these refinements is in the bill's approach to ensuring that each person possesses only one valid license ... from any one state ... at any one time. To meet this goal, REAL ID would have mandated an information sharing system that may not be technically feasible or governed by any basic privacy protections. Instead of scrapping this system altogether, PASS ID would preserve and fund a pilot program to test necessary technology and to permit a careful examination of privacy concerns. This makes sense.

Nonetheless, I recognize the concerns of those who fear that this bill, in addressing problematic portions of the REAL ID Act, may have unintended consequences. Drivers' licenses can be the "keys to the kingdom" for

terrorists bent on death and destruction, and states have a responsibility to ensure licenses are tamper-proof and issued only to people whose identity and legal status can be verified.

Certain language in the PASS ID Act may undermine that goal because it would not allow TSA to prevent a passenger from boarding a plane based “solely” on the fact that he or she did not have a compliant license. This provision would eliminate an important incentive for states to adopt federal standards for secure licenses and could impose worrisome restrictions on the discretion of security officials who believe a passenger without a compliant card should not be permitted to board a plane.

As we examine this legislation today, my primary concerns are whether these provisions are moving us toward the security goal set by the 9/11 Commission five

years ago while accommodating the legitimate concerns of states and privacy experts.

Specifically, I would like the witnesses to address the following questions:

- Do the provisions of the PASS ID Act create secure licenses that can be kept out of the hands of future terrorists who could use them - as the 9/11 hijackers did - to move freely within the United States?
- How much will it cost to implement the PASS ID Act, and how much of the cost should the federal government assume?
- Does the PASS ID Act include sufficient privacy protections to ensure that personal information is protected from theft and abuse?

Today, we roll up our sleeves and once again dig into the work of ensuring that states issue secure licenses - a protection recommended by the 9/11 Commission and one that we owe the American people.

###