

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
INTERGOVERNMENTAL AFFAIRS COMMITTEE HEARING

PRESENTATION ON REAL ID ACT OF 2005

HARRISBURG CITY COUNCIL CHAMBERS
10 NORTH SECOND STREET
HARRISBURG, PENNSYLVANIA

WEDNESDAY, JANUARY 23, 2008, 10:00 A.M.

BEFORE:

HONORABLE W. CURTIS THOMAS, CHAIRMAN
HONORABLE JOHN C. BEAR
HONORABLE KERRY A. BENNINGHOFF
HONORABLE RONALD I. BUXTON
HONORABLE TODD A. EACHUS
HONORABLE MIKE FLECK
HONORABLE KEITH J. GILLESPIE
HONORABLE WILLIAM F. KELLER
HONORABLE CARL W. MANTZ
HONORABLE DUANE MILNE
HONORABLE MICHAEL H. O'BRIEN
HONORABLE SCOTT PERRY
HONORABLE DAVID J. STEIL

JEAN M. DAVIS, REPORTER
NOTARY PUBLIC

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11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X
TESTIFIERS

NAMES	PAGE
KURT MYERS	11
JOHN COMEY	19
DARRELL WILLIAMS	27
RALPH JOHNS	112
MARK LERNER	112
JEREMY MEADOWS	118

1 CHAIRMAN THOMAS: Good morning to everyone.
2 My name is W. Curtis Thomas, and I'm
3 majority chair of the House Intergovernmental
4 Affairs Committee. We have a number of
5 distinguished members of the Committee and
6 Representatives here this morning, but I'd like to
7 take care of a little housekeeping first.

8 One, we want to extend our sincere thanks
9 and appreciation to the Honorable Mayor Reed for
10 allowing us to come into this great city to hold
11 this hearing.

12 We also want to thank the president of City
13 Council, the Honorable Linda Thompson, for giving us
14 an opportunity to use these chambers for our
15 hearing.

16 And we want to thank the Secretary of the
17 Pennsylvania Department of Transportation, and
18 especially thank my staff and the staff of the
19 minority chair for their efforts in pulling all of
20 this together.

21 So let us give the Mayor, City Council, my
22 staff, the minority chair's staff, a big round of
23 applause, and happy New Year.

24 (Applause.)

25 CHAIRMAN THOMAS: We're honored to have the

1 great Rep from Harrisburg and Dauphin County with us
2 this morning, and we're going to ask him to just
3 give us a few introductory remarks. And after he
4 finishes, then we're going to hear from the minority
5 chair, the Honorable Dave Steil, who is not here but
6 one of our subcommittee chairs is here, so we're
7 going to hear from him.

8 So at this particular time, let us hear from
9 the distinguished Rep from Harrisburg and Dauphin
10 County.

11 (Applause.)

12 REPRESENTATIVE BUXTON: Thank you, Chairman
13 Thomas.

14 It's a distinct honor for me to welcome you
15 here to the City Government Center, the Chambers of
16 Harrisburg City Council, as this Committee begins
17 the long and tedious task of collecting testimony
18 from around the State on the issue of the REAL ID.

19 The Philadelphia Inquirer, in an editorial,
20 recently said that it would take 9 years for all of
21 the Departments of Motor Vehicles to hook up their
22 computers nationwide at a cost of over \$4 billion,
23 and we're still not sure whether we as citizens are
24 going to see the safeguards that the REAL ID as
25 proposed by the Federal government will deliver.

1 So we're here today to gather testimony.
2 Chairman Thomas has put together a very aggressive
3 schedule for the Committee to take in this public
4 testimony so that Pennsylvania will know from its
5 citizens and from those who will be working with the
6 Federal government the costs and the protections
7 that will be provided to the citizens of our
8 Commonwealth.

9 And again, I welcome you here to City
10 Council Chambers on behalf of the Mayor and
11 president of the council, Linda Thompson.

12 CHAIRMAN THOMAS: Thank you, sir.

13 Let me acknowledge the chair of our House
14 State Government Committee, the Honorable Babette
15 Josephs. I'd just like you to wave to everybody.

16 REPRESENTATIVE JOSEPHS: Thank you.

17 CHAIRMAN THOMAS: And is Chairman Markosek
18 here, the chair of the House Transportation
19 Committee? No, but his staff is here. We're glad
20 to have them, because this is one of those issues
21 that intersects more than just one Committee, and
22 the three or four primary Committees in the House
23 that will be dealing with this issue are the House
24 State Government Committee, the House Transportation
25 Committee, the Democratic Policy Committee, and the

1 House Intergovernmental Affairs Committee.

2 We have a statement that the president of
3 City Council would like to enter into the record and
4 has asked that we share these few comments:

5 "On behalf of Harrisburg City Council, I,
6 President Linda D. Thompson, want to welcome you all
7 this morning. The issue before us today is the
8 potential impact of the REAL ID Act of 2005.

9 "On behalf of my constituents, many of whom
10 are elderly and poor, I want to make it known and
11 enter into the record that I have deep concerns
12 about the negative impact this unfunded Federal
13 mandate will have on them."

14 (Applause.)

15 CHAIRMAN THOMAS: "To that end, I support
16 the position of the House of Representatives
17 Intergovernmental Affairs Committee and our position
18 to this complex and potentially devastating
19 legislation.

20 "In town hall meetings throughout the city,
21 the interviews of the citizens themselves would be
22 useful. I certainly offer to coordinate such
23 efforts.

24 "President Linda D. Thompson."

25 As Chairman of the House Intergovernmental

1 Affairs Committee, I would like to welcome you to
2 the first of several public hearings on the Federal
3 REAL ID Act of 2005.

4 In May of 2005, Congress enacted the REAL ID
5 law to address concerns regarding the creation of
6 fraudulent identification documents and terrorism.
7 The Department of Homeland Security released final
8 regulations regarding REAL ID on January 11, 2008.

9 Depending on the action taken by the
10 Commonwealth of Pennsylvania, compliance with the
11 Act can occur as early as May 11, 2008, but must be
12 phased in for everyone in the United States no later
13 than December 1, 2017. This Act will impact the
14 lives of at least 240 million Americans, including
15 over 9 million Pennsylvanians.

16 The Act outlines nationwide standards for
17 driver's licenses and identification cards used for
18 an official purpose, which is defined as "entry into
19 Federal facilities, boarding commercial airlines,
20 and entering nuclear power facilities."

21 REAL ID is a Federal law. The Federal
22 government, though, has allocated only \$90 million
23 to assist States with implementation of REAL ID.
24 The Department of Homeland Security estimates that
25 the cost to put REAL ID in place will be about \$3.9

1 billion.

2 A study by the National Conference of State
3 Legislatures, the National Governors Association,
4 and the American Association of Motor Vehicles
5 estimates the States will need to spend \$11 billion
6 over 5 years to meet REAL ID requirements.

7 Implementing REAL ID will cause operational
8 and fiscal challenges for Pennsylvania and our State
9 government. The Department of Transportation
10 estimated that REAL ID will cost at least \$85
11 million to implement in Pennsylvania.

12 In order to obtain REAL ID driver's licenses
13 and identification cards, individuals will need to
14 make in-person visits and bring documents such as
15 Social Security cards, birth certificates, and proof
16 of address to PENNDOT.

17 Renewing licenses in person will be
18 extremely burdensome for people, especially the
19 poor, the elderly, and individuals born in other
20 countries who may have a difficult time accessing
21 personal documents like birth certificates.

22 Although States are not required to
23 implement REAL ID, a State choosing to opt out of
24 the Act would cause a monumental inconvenience to
25 residents. Residents who currently use driver's

1 licenses as their primary form of identification to
2 board airplanes or to enter secure Federal
3 facilities would be unable to do so. They would be
4 left using passports or some other identification to
5 enter Federal facilities.

6 Pennsylvania residents, legislators, and
7 other policymakers, must take notice about REAL ID.
8 The Act will disrupt the lives of many
9 Pennsylvanians and Americans. Legislators must
10 educate the public about gathering personal
11 documents needed to process REAL ID cards and about
12 implementation of procedures for renewing driver's
13 licenses and identification cards.

14 Residents also need a forum to voice
15 concerns about the REAL ID Act and regulations.
16 These hearings are designed to educate legislators
17 and other policymakers and empower residents about
18 the possible impact of REAL ID.

19 We hope that participants at these hearings
20 will learn more about REAL ID and how the Act and
21 regulations will affect Pennsylvanians.

22 Some have even suggested that REAL ID could
23 cause major interference to that constitutional
24 right that we all have -- the right to travel from
25 State to State. So the impact of REAL ID can be

1 devastating, and to that end, I want to thank each
2 and every one of you for being here this morning and
3 especially the people who have decided to come and
4 provide testimony.

5 We have heard from a stellar Representative
6 from Harrisburg and Dauphin County, Representative
7 Ronald Buxton. Are there any comments that the
8 minority chair would like to provide before we go
9 into our testimony of our presenters?

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

12 I join you on behalf of Chairman Adolph and
13 the House Republicans, and I am looking forward to
14 the testimony, and thank you for scheduling the
15 meeting here. Also our thanks to the City of
16 Harrisburg for providing the Chamber.

17 I also would like to thank one of my
18 constituents from the Mount Wolf area who has made
19 no less than four trips to Harrisburg to discuss
20 this issue with me, and a number of his colleagues
21 are also present here today.

22 So with that, I look forward to the
23 testimony, and thank you once again, Mr. Chairman.

24 CHAIRMAN THOMAS: Thank you.

25 Is there a representative here from the

1 United States Department of Homeland Security?

2 Okay. We will expect him very shortly.

3 Pennsylvania Department of Transportation;
4 is Kurt Myers here?

5 DEPUTY SECRETARY MYERS: Yes.

6 CHAIRMAN THOMAS: Mr. Myers, would you like
7 to start us off with your testimony, and each of you
8 should have a packet which includes information on
9 the Committee and also includes a very good analysis
10 of the REAL ID Act.

11 Mr. Myers.

12 DEPUTY SECRETARY MYERS: Good morning, Mr.
13 Chair and members of the Committee.

14 CHAIRMAN THOMAS: Good morning.

15 DEPUTY SECRETARY MYERS: My name is Kurt
16 Myers, and I am the Deputy Secretary for PENNDOT'S
17 Safety Administration. On behalf of the Secretary
18 of Transportation, Allen Biehler, I appreciate the
19 opportunity to testify today on the REAL ID Act of
20 2005.

21 PENNDOT acknowledges the concept and
22 principles of the REAL ID Act of 2005 and recognizes
23 the fundamental importance of establishing the
24 proper identity when issuing a driver's license or
25 photo identification card.

1 PENNDOT is committed to enhancing the
2 security of our products, processes, and facilities
3 in a continuing effort to safeguard the integrity of
4 our driver licensing and identification card
5 systems. With this commitment, PENNDOT recognizes
6 the importance of maintaining the customer's
7 expectation that personal data will be secure and
8 privacy maintained.

9 The REAL ID Act is a Federal effort to
10 enhance the integrity and security of State-issued
11 driver's licenses and photo identification cards,
12 which is intended to aid in the fighting of
13 terrorism and further mitigating the risk for fraud.

14 As you know, the U.S. Department of Homeland
15 Security released the final REAL ID regulations on
16 Friday, January 11, 2008. PENNDOT immediately began
17 an indepth analysis of the 284-page document in
18 order to identify potential options for Pennsylvania
19 and the impact that those options would have on the
20 citizens of the Commonwealth.

21 This analysis has not been completed as of
22 this hearing. However, I am in a position to
23 discuss what PENNDOT does today in regard to
24 ensuring the integrity of the driver's license and
25 photo identification card issuance process and the

1 security measures currently in place to maintain the
2 privacy of customer data. I am also able to speak
3 in regard to the REAL ID timeline as set forth in
4 the final regulations as well as some possible
5 limited funding options should Pennsylvania choose
6 to implement the REAL ID Act.

7 As background, and fundamental to issuing
8 driver's licenses and photo identification cards,
9 Pennsylvania law requires that individuals must meet
10 certain identity and residency requirements in order
11 to obtain a Pennsylvania driver's license and/or
12 photo identification card.

13 A U.S. citizen applying for a driver's
14 license or photo identification card must present
15 PENNDOT with one form of identification such as a
16 birth certificate with a raised seal or a U.S.
17 passport. In addition, the individual must provide
18 two proofs of residency and his or her Social
19 Security card.

20 PENNDOT performs three main electronic
21 verifications, including verifying the individual's
22 Social Security number with the Social Security
23 Administration; verifying that the individual's
24 driving privilege is not suspended in another State;
25 and if the individual is moving from another State,

1 verifying the validity of the out-of-State driver's
2 license with the issuing State.

3 A non-U.S. citizen applying for a driver's
4 license or photo identification card must present
5 PENNDOT with valid immigration documents based on
6 his or her immigration status, a Social Security
7 card, and two proofs of residency.

8 PENNDOT performs, when applicable, the same
9 electronic verifications as mentioned previously.
10 In addition, PENNDOT completes an electronic
11 verification of the INS credentials of those
12 individuals who are not eligible for a Social
13 Security card.

14 All electronic verifications must be
15 satisfactorily completed prior to the issuance of
16 any product.

17 In addition to these requirements, PENNDOT
18 conducts facial recognition checks to ensure the
19 applicant does not have more than one driver's
20 license or photo identification card already issued
21 under a different identity. The facial recognition
22 checks are an anti-fraud measure which aid in
23 further mitigating the risk for identity theft.

24 As stated earlier, PENNDOT takes the
25 security of our products, processes, systems, and

1 facilities, and the privacy of customer data very
2 seriously. I am sure you can understand that I
3 cannot discuss specific security features we have in
4 place. However, at the highest level, the following
5 are some measures PENNDOT has implemented to enhance
6 security and maintain privacy of customer data.

7 Our driver's licenses and photo
8 identification cards contain three levels of
9 security: overt, covert, and forensic. Recently,
10 PENNDOT began issuing driver's licenses and photo
11 identification cards with additional security
12 features and a new overlay.

13 In addition to the security of our products,
14 managers and supervisors at PENNDOT's 72 driver's
15 license centers have completed fraud recognition
16 training, and we are in the process of training all
17 driver's license center employees. The training is
18 focused on recognizing fraudulent identity
19 documents.

20 Some additional security measures include
21 initial, name-based criminal history checks of those
22 employees responsible for the handling of
23 confidential information and continued monitoring of
24 the employee's criminal history. Those employees
25 responsible for handling confidential information

1 are also required to read and sign a confidentiality
2 policy annually, with the understanding that if they
3 breach the policy in any way, disciplinary action
4 may be taken up to and including termination. And
5 depending on the severity of the breach, it could
6 lead to a law enforcement investigation.

7 PENNDOT also has a Privacy Manual which
8 outlines the controls and measures we have in place
9 to address the security and privacy of customer
10 information and the responsibility of each employee
11 to maintain the confidentiality of that information.
12 All employees who are responsible for handling
13 confidential information receive a copy of this
14 manual.

15 In addition to these safeguards, PENNDOT has
16 an Office of Risk Management, whose responsibilities
17 include the oversight of our security policies and
18 the investigation of alleged misuse.

19 I can assure you that PENNDOT is and will
20 remain committed to enhancing the security of our
21 products, processes, systems, and facilities and
22 maintaining the privacy of customer data, regardless
23 of whether Pennsylvania decides to implement the
24 REAL ID Act.

25 In regard to the timeline set forth in the

1 final REAL ID regulations, it is our interpretation
2 that the following chronology has been established:

3 Effective May 11, 2008, only REAL ID
4 driver's licenses and photo identification cards
5 will be accepted by Federal agencies for official
6 purposes, including boarding a commercial aircraft
7 and entering a nuclear power plant or Federal
8 facility that requires identification, unless the
9 State in which the individual resides has been
10 granted an initial extension by the Department of
11 Homeland Security.

12 At this point, Pennsylvania plans to file
13 for an initial extension in order to complete the
14 analysis of the final REAL ID regulations. If
15 Pennsylvania is granted an initial extension by DHS,
16 the citizens of the Commonwealth will be able to use
17 their current driver's licenses or photo
18 identification cards for Federal official purposes
19 until December 31, 2009.

20 If Pennsylvania decides to implement the
21 REAL ID Act, individuals born on or after December
22 1, 1964, approximately 4.1 million driver's license
23 and photo ID card holders, must have a REAL ID
24 driver's license or photo identification card by
25 December 1, 2014, for official Federal purposes as

1 defined by the final regulations.

2 Individuals born before December 1, 1964,
3 approximately 5.4 million driver's license and photo
4 ID card holders, must have a REAL ID driver's
5 license or photo identification card by December 1,
6 2017, for official Federal purposes as defined in
7 the final regulations.

8 In regard to funding, currently REAL ID
9 funds are very limited. However, funds are
10 available through a grant application process and/or
11 redirection of up to 20 percent of Pennsylvania's
12 Homeland Security committed funds. In consultation
13 with Pennsylvania's Office of Homeland Security, we
14 calculate that the 20 percent equates to
15 approximately \$2.4 million.

16 However, many of these dollars are already
17 committed to other Homeland Security efforts in
18 Pennsylvania. Grant programs that total \$31 million
19 and an additional \$50 million are available for all
20 States that are participating in REAL ID. This is
21 clearly a limited amount of funding considering the
22 potential costs of implementing the REAL ID Act in
23 multiple States, the District of Columbia, and U.S.
24 territories.

25 I can assure you that we are working as

1 quickly as possible to complete our analysis of the
2 REAL ID final regulations and will be able to
3 provide further details once we complete this
4 analysis.

5 At this time, I am available to take any
6 questions you may have. Thank you.

7 CHAIRMAN THOMAS: I would like John Comey to
8 come up from the Pennsylvania Emergency Management
9 Agency. You two, both agencies, are working
10 together, right?

11 DEPUTY SECRETARY MYERS: Yes. PENNDOT is
12 the lead agency on this.

13 MR. COMEY: Yes. Mr. Chairman, for purposes
14 of your hearing, PEMA does not have formal
15 testimony. We are working closely with PENNDOT. We
16 support their position and will continue to work
17 with them as this program moves forward. And we
18 will be happy to answer questions, if that's
19 appropriate.

20 CHAIRMAN THOMAS: Okay; all right. Then we
21 can go to questions for both of you.

22 First, let me introduce the distinguished
23 members of the Committee that are with us this
24 morning, and let me start to my left with the
25 Honorable Michael O'Brien from Philadelphia County;

1 and then we have the Honorable Mike Fleck; we have
2 the Honorable John Bear; we have the Honorable Ron
3 Buxton; and we have the Honorable Milne; the
4 Honorable Perry; and the chair of our Federal-State
5 Relations Subcommittee, the Honorable Gillespie; and
6 we have the minority chair of the House
7 Intergovernmental Affairs Committee, the Honorable
8 Dave Steil.

9 And I mentioned earlier another Committee of
10 the House that is going to be interacting or
11 collaborating on this issue, the Honorable Todd
12 Eachus, who is the chair of the Democratic Policy
13 Committee; and we have Representative Mantz from the
14 House Intergovernmental Affairs Committee. I
15 mentioned the Honorable Babette Josephs, who is
16 chair of the House State Government Committee.

17 Did I overlook anybody? The Honorable Sam
18 Rohrer, who has a bill in our Committee about REAL
19 ID. We're glad to have him with us this morning.

20 Now, did I overlook anybody else? If I did,
21 charge it to my head and not my heart. Just let me
22 know that you are here, and we will acknowledge you.

23 At this particular time, let me start our
24 questioning from our far left with the Honorable
25 Michael O'Brien. Do you have any questions?

1 REPRESENTATIVE O'BRIEN: No; thank you.

2 CHAIRMAN THOMAS: The Honorable
3 Representative Fleck.

4 REPRESENTATIVE FLECK: Can everyone hear me?

5 I just have a question as far as your facial
6 recognition checks. Do you actually compare or do
7 you have a system that you can put facial IDs in?
8 It's not someone kind of holding up pictures or
9 something.

10 DEPUTY SECRETARY MYERS: We have technology
11 that we currently deploy at our driver's license
12 sites as well as on our existing database that has
13 the capabilities, without getting into the technical
14 aspects of it, that has the capabilities of looking
15 at that digital photo and then comparing it against
16 our database, pictures that we have on file, and
17 looking for potential matches. And I want to stress
18 that, that it is potential matches.

19 Once that occurs, a number of photos,
20 perhaps two, perhaps more, will come out of
21 potential matches. We then have human intervention
22 to look at that raw data to see whether or not there
23 are in fact any similarities perhaps in the
24 signatures, in addresses, things of that nature,
25 even though the names may be different.

1 And then and only then, after we've done an
2 exhaustive review of that raw data, if we're not
3 conclusive on the information, would we send it over
4 to law enforcement for further investigation.

5 REPRESENTATIVE FLECK: Now, if someone -- a
6 college student or someone -- is trying to get into
7 a bar with a fake ID, do you guys keep track of that
8 or confiscate it or anything, or is that one of the
9 law enforcement aspects of that?

10 DEPUTY SECRETARY MYERS: If they're
11 fraudulent documents and they weren't through our
12 system, no, we would have no way of tracking those.

13 REPRESENTATIVE FLECK: Okay. Now, do you
14 know if anyone, maybe the Attorney General's Office
15 or anyone, that does keep track of fake IDs per se?

16 DEPUTY SECRETARY MYERS: I don't know the
17 answer to that from the standpoint of the Attorney
18 General's Office.

19 REPRESENTATIVE FLECK: Thank you.

20 CHAIRMAN THOMAS: Thank you.

21 Let me now move to the chair of Democratic
22 Policy, the Honorable Todd Eachus. Do you have any
23 questions?

24 REPRESENTATIVE EACHUS: May I borrow your
25 microphone?

1 Thank you, Mr. Chairman.

2 There have been concerns from members about
3 issues of confidentiality and privacy inside the
4 requests from the Federal government to nationalize
5 this process. Do you have any comment on the
6 potential outcome of your work as it relates to the
7 issues of confidentiality and, you know, identity
8 theft potentially in this?

9 DEPUTY SECRETARY MYERS: In particular to
10 REAL ID?

11 REPRESENTATIVE EACHUS: Yes.

12 DEPUTY SECRETARY MYERS: The answer to that
13 is that I believe very strongly that the issues of
14 identity theft are growing. Those criminals are
15 becoming very sophisticated in what they do and how
16 they do it in an effort to take the identity of
17 somebody else.

18 I believe many of the items that I mentioned
19 in my comments speak to the fact that PENNDOT takes
20 very seriously the protection of this information,
21 but also taking whatever steps we possibly can to
22 make sure that we create a document or a product
23 that is difficult to forge.

24 I believe that certainly many of the things
25 that are identified in the REAL ID Act we currently

1 do, because we believe they are the right thing to
2 do from the standpoint of protecting the citizens of
3 Pennsylvania from the standpoint of creating a
4 document that is difficult to fraudulently change or
5 do something to.

6 So from the standpoint, you used the term,
7 you know, a "national" ID. I think from my
8 standpoint in looking at the REAL ID process, for it
9 to be effective, we need, obviously, to be able to
10 communicate with other jurisdictions. We do that
11 now. That's not something that is new.

12 This takes it to, if you will, a level that
13 we're not at at this point in time, because right
14 now, we're checking for violations in other States.
15 But REAL ID says that we will have the ability to
16 check another State to validate that that person has
17 an existing driver's license, REAL ID driver's
18 license, in the State that they're moving from.

19 But that information, the intent of that, is
20 not to store that information on a centralized
21 database but simply to share information between
22 jurisdictions.

23 REPRESENTATIVE EACHUS: Sure. Let me just
24 follow up, Mr. Chairman, and then I'll step back.

25 But I guess my question to you is then, you

1 really feel this creates a stronger level of
2 attracting compliance for the Commonwealth as it
3 relates to documentation, so you're making that
4 case. You understand the arguments from the other
5 side, that there is some larger concern over privacy
6 issues in this. Obviously as we advance this
7 process, we're going to have to balance those
8 issues.

9 From the Department's perspective, you are
10 making the argument here today that you really think
11 this is necessary, because--- Can you give me the
12 reasons, review the reasons, one more time?

13 DEPUTY SECRETARY MYERS: I want to clarify
14 one thing, that the Department has not made a
15 determination as of yet as to what recommendations
16 we might have from the standpoint of participation
17 in REAL ID. We're still doing the analysis of the
18 regulations.

19 What I said earlier in my statement was that
20 the Department supports the principles of REAL ID
21 because of the fact that many of the things that the
22 REAL ID Act calls for we are currently doing,
23 because we think they're the right thing to do
24 regardless of whether we participate in REAL ID or
25 not. So I hope that that clarifies.

1 REPRESENTATIVE EACHUS: Thank you very much.

2 Thank you, Mr. Chairman.

3 CHAIRMAN THOMAS: Thank you.

4 Representative Chairman Josephs.

5 REPRESENTATIVE JOSEPHS: Thank you.

6 I have two questions. One is kind of long,
7 I fear. But the REAL ID Act, as you know, requires
8 an inclusion of each person's gender on his or her
9 license. Many States, many municipalities,
10 recognize real challenges with transgendered
11 individuals. Nothing in the Federal government
12 prevents, right now any way, the States making their
13 own procedures to deal with that challenge.

14 So a preliminary question of mine is, what
15 does PENNDOT do when an individual whose present
16 gender does not match his or her birth certificate
17 when confronted by that person who wants a driver's
18 license or a photo ID card?

19 DEPUTY SECRETARY MYERS: I'm not aware of
20 the specific answer to your question. I will be
21 happy to get back to you and to the Committee with
22 the specific processes that we follow.

23 REPRESENTATIVE JOSEPHS: Okay. I really
24 would appreciate that.

25 DEPUTY SECRETARY MYERS: Certainly.

1 REPRESENTATIVE JOSEPHS: The regulations, as
2 I understand them, just released by the Department
3 of Homeland Security do not interfere with the
4 State's ability to set up its own procedures for
5 transgendered -- and you're nodding to say that
6 that's your understanding as well.

7 DEPUTY SECRETARY MYERS: That's correct.

8 REPRESENTATIVE JOSEPHS: But they don't, as
9 I understand, in themselves have procedures for
10 transgendered individuals. They allow the States to
11 ask for a waiver. I am very sorry that the Homeland
12 Security people are not here, because---

13 DEPUTY SECRETARY MYERS: They are here.

14 REPRESENTATIVE JOSEPHS: Oh, good. Thank
15 you.

16 What kind of--- Sir, can you tell us your
17 name?

18 MR. WILLIAMS: Darrell Williams. I'm the
19 Department of Homeland Security Director for the
20 REAL ID program.

21 REPRESENTATIVE JOSEPHS: Thank you.

22 You've announced that the States may apply
23 for a waiver for implementation of the REAL --

24 CHAIRMAN THOMAS: Representative Josephs, I
25 would like to hold up on questioning of Mr. Williams

1 until after he has presented his testimony.

2 REPRESENTATIVE JOSEPHS: Okay. I think then
3 in that case--- Well, one other question then.

4 I just heard -- to the PENNDOT person, Mr.
5 Myers -- I just heard about a situation in
6 Philadelphia with a home fire where the people just
7 walked out of the building that was burning with the
8 clothes on their back, no papers, everything gone.

9 DEPUTY SECRETARY MYERS: Yes.

10 REPRESENTATIVE JOSEPHS: Does PENNDOT have
11 any procedures to deal with situations like that and
12 could you outline them for us?

13 DEPUTY SECRETARY MYERS: Yes, we do now.
14 And I will point out as well -- and Darrell can add
15 to this as well -- that the regulations as finalized
16 for REAL ID also allow for flexibility on the part
17 of each jurisdiction to deal with a Katrina type of
18 situation, where people are forced to leave their
19 properties without any time to search out documents
20 and things of that nature.

21 REPRESENTATIVE JOSEPHS: Right.

22 DEPUTY SECRETARY MYERS: Certainly in the
23 case of Pennsylvania today, we deal with these types
24 of situations on a fairly regular basis, where there
25 are tragedies that occur where someone indicates, as

1 you used in the example, where there's a fire and
2 they need to get out.

3 REPRESENTATIVE JOSEPHS: Okay.

4 DEPUTY SECRETARY MYERS: I don't know if
5 this was in reference to the apartment complex that
6 was -- a few months ago, I guess, that there was
7 one, and we actually sent down our emergency
8 response vehicles that went down and were able to
9 help individuals actually issue their driver's
10 license replacements. Because, of course, we have
11 the digital photo on our record base.

12 REPRESENTATIVE JOSEPHS: I see.

13 DEPUTY SECRETARY MYERS: But we have
14 specific procedures that we follow as far as
15 validating who the individual is and how we go about
16 that process, because we clearly understand that
17 there are times that things occur.

18 REPRESENTATIVE JOSEPHS: Sure.

19 DEPUTY SECRETARY MYERS: And I will note as
20 well, again, within the REAL ID Act as to the final
21 regs, there is an exception process that simply
22 needs to be documented by the jurisdiction to
23 Homeland Security that says, this is how you will do
24 it, and then there is a reporting process that is
25 associated with that.

1 REPRESENTATIVE JOSEPHS: Mr. Chairman, if I
2 could ask one question, which the answer will come
3 later, I believe.

4 I have no idea myself how to estimate how
5 many transgendered individuals might apply for a
6 driver's license. In your answer to me about those
7 procedures, if you have an estimate, I would
8 appreciate having that as well.

9 DEPUTY SECRETARY MYERS: It would have to be
10 an estimate. My guess is that we do not keep that
11 type of information. It is done within a one-on-one
12 basis.

13 REPRESENTATIVE JOSEPHS: Okay.

14 Mr. Chairman, I thank you, and if I could
15 come back up later, I would very much appreciate it.

16 CHAIRMAN THOMAS: Thank you, Madam
17 Chairlady.

18 Representative Buxton.

19 REPRESENTATIVE BUXTON: Thank you, Mr.
20 Chairman.

21 Mr. Myers, I would just like you to clear
22 something up for me, if you would.

23 DEPUTY SECRETARY MYERS: Sure.

24 REPRESENTATIVE BUXTON: On page 6 of your
25 testimony, you indicate that effective May 11, only

1 REAL ID driver's licenses and photo identification
2 cards will be accepted, for example, to board an
3 airplane. And then on page 7 you say individuals
4 born before December 1964 -- that's me -- must have
5 a REAL ID driver's license or photo identification
6 to board an airplane. Where are we?

7 DEPUTY SECRETARY MYERS: Well, the --

8 REPRESENTATIVE BUXTON: What happens in May
9 of this year? Will I be able to get on an airplane
10 with my current Pennsylvania driver's license?

11 DEPUTY SECRETARY MYERS: Yeah. The answer
12 to that is yes, for two reasons, and the first
13 reason is the fact that Pennsylvania has requested
14 an extension, and as I noted earlier, I just
15 received a letter actually from Darrell this morning
16 via the e-mail that our extension has been approved.
17 That extension goes until December 31, 2009.

18 So yes, your driver's license will be fine
19 for being able to get on a commercial airline, or if
20 you decide to visit a power plant or a Federal
21 facility that requires a current ID, that will be
22 good through December 31, 2009.

23 REPRESENTATIVE BUXTON: So how do I
24 understand the part of your testimony that indicates
25 that people born before 1964 have until 2017?

1 DEPUTY SECRETARY MYERS: Yes. The way that
2 the regulations were finalized allows for a split in
3 who is required--- Assuming that Pennsylvania were
4 to employ the REAL ID Act, it splits the population
5 into two. Those that are 49 and under as of
6 December 1, 1964, would be required to have a REAL
7 ID by December 1 of 2014. Those who were born after
8 December 1, 1964, would be required to have a REAL
9 ID by 2017.

10 The understanding that we have is that this
11 was simply done to ease some of the implementation
12 pressure of trying to bring on nearly 9 million
13 registered driver's licensing or ID cards over a
14 4-year period of time and stretches it out over a
15 longer period of time.

16 REPRESENTATIVE BUXTON: Okay.

17 DEPUTY SECRETARY MYERS: And it also, as I
18 understand by reading the regulations, was done by
19 some statistical analysis that suggests that those
20 individuals who are over 50, from a statistical
21 standpoint based upon the analysis that the Federal
22 government did, were less likely to commit identity
23 fraud and less likely to be involved in terroristic
24 acts.

25 REPRESENTATIVE BUXTON: So am I to

1 understand that when somebody goes to board an
2 airplane in Pennsylvania after May 11 of this year,
3 the TSA will know that Pennsylvania has been issued
4 an extension under the REAL ID and will accept
5 people's driver's licenses for boarding an airplane?

6 MR. WILLIAMS: Yes.

7 DEPUTY SECRETARY MYERS: I don't want to
8 speak for Homeland Security. You might want to say
9 something.

10 MR. WILLIAMS: Yes.

11 REPRESENTATIVE BUXTON: So are we saying
12 that TSA will have a list of States that are
13 complying and those that have received extensions
14 and those who may not be complying?

15 MR. WILLIAMS: Well, we work hand in hand
16 with TSA really on a daily basis. So all the lists
17 and all the updates, TSA will be provided to be
18 informed as to which States have extensions, have
19 applied for extensions, and have been approved for
20 extensions.

21 REPRESENTATIVE BUXTON: You see, my concern
22 is the Federal government has decided that on May 11
23 of this year, certain identifications are to be in
24 place, and if they're not in place, it's either that
25 the States have received an extension from the

1 Federal government or decided not to comply with the
2 Federal government and what confusion that may
3 produce to individuals who need that identification
4 for a number of purposes.

5 The easiest one to expand, obviously, is
6 boarding an airplane, and I'm hoping that people are
7 not going to find on May the 12th that there is
8 difficulty in boarding an airplane because they
9 don't have some new Federal identification that the
10 Feds have said should be in effect on the 11th of
11 May.

12 CHAIRMAN THOMAS: If I can, Representative
13 Buxton, and I guess as we go through the other
14 questions we can clear this up, but it's my
15 understanding that May 11, 2008, the clock starts to
16 tick and doesn't end, for all practical purposes,
17 until 2017.

18 DEPUTY SECRETARY MYERS: That's correct.

19 CHAIRMAN THOMAS: So starting May 11, States
20 that are compliant will have to begin some process
21 of these standardized rules as it relates to
22 licenses and non-license identification.

23 REPRESENTATIVE BUXTON: Okay.

24 CHAIRMAN THOMAS: So come May 11,
25 Pennsylvanians don't have to worry about boarding

1 planes, unless by May 11 somebody, like in my case,
2 has to renew their license in April. If by April
3 Pennsylvania has not signed on, then I will not be
4 able to be issued this standardized license and,
5 therefore, could be precluded from boarding a plane.
6 But the point I want to make is that the clock
7 starts on May 11, 2008; it doesn't end May 11, 2008.

8 REPRESENTATIVE BUXTON: Well, Mr. Myers, my
9 information is that the Federal government
10 established May 11, 2008, as the date that people
11 are to have new identifications in order to board
12 airplanes or for any other identification; is that
13 correct?

14 MR. WILLIAMS: Well---

15 REPRESENTATIVE BUXTON: But that is the date
16 that they have set to implement the REAL ID as far
17 as boarding airplanes and for other commercial uses.

18 MR. WILLIAMS: The law which was enacted in
19 2005---

20 REPRESENTATIVE BUXTON: Right.

21 MR. WILLIAMS: ---gave 3 years for
22 implementation. That implementation date starts May
23 11 of 2008, and what that entails is, for all
24 States, there is an allowance of an extension. For
25 those States that wish to apply for an extension,

1 they so can, and an extension will be granted until
2 December 31, 2009. For those states that choose not
3 to apply for an extension, then at that time they
4 will have to have a State-issued -- and it's really
5 a State-issued -- REAL ID compliant driver's license
6 or identification card.

7 REPRESENTATIVE BUXTON: But just so the
8 public here understands, that 3-year period begins
9 May 11 of this year?

10 MR. WILLIAMS: That period begins May 11 of
11 this year. And for boarding an aircraft, you only
12 require a REAL ID driver's license if you choose to
13 show a driver's license. If you choose to show any
14 other credential that TSA accepts, you can use that
15 in lieu of a driver's license. So you only have to
16 show a REAL ID compliant driver's license if you
17 choose to show a driver's license.

18 REPRESENTATIVE BUXTON: Thank you.

19 CHAIRMAN THOMAS: Thank you. It was good to
20 clear that issue up.

21 Representative Gillespie.

22 Well, sorry.

23 REPRESENTATIVE GILLESPIE: That's all right.

24 CHAIRMAN THOMAS: We'll let the Chairman go
25 first and then we'll go to you.

1 REPRESENTATIVE GILLESPIE: Sure.

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

4 Thank you, Mr. Myers, for your testimony. I
5 have two questions.

6 DEPUTY SECRETARY MYERS: Sure.

7 REPRESENTATIVE STEIL: One, can you give us
8 an idea of PENNDOT's time line in regard to, number
9 one, completing the analysis of the REAL ID
10 regulations? And following that completion of the
11 analysis, how long before you would be able to make
12 recommendations to this Committee so that we can
13 look at and move legislation which members may want
14 to do?

15 DEPUTY SECRETARY MYERS: Well, as you can
16 imagine, going through this process, looking at the
17 requirements from the standpoint of our facilities
18 and what changes would need to be made, from the
19 standpoint of our product and what changes would
20 need to be made, as far as processes are concerned,
21 those changes that would need to be made, this is an
22 extensive analysis that needs to take place.

23 The analysis is focused on two areas. One
24 is, what's the impact to the customer by making
25 these changes from the standpoint of process,

1 products, facilities, and things of that nature?
2 And obviously the one that is extremely important to
3 all of us as well is the issue and the question of,
4 what's this going to cost to be able to implement
5 this?

6 So we want to do a thorough evaluation. Our
7 hope is that we will complete that within the next
8 few months so that we have an opportunity then to
9 sit down and to explore options from the standpoint
10 of what and how we would deploy the REAL ID Act, and
11 the other question obviously being if.

12 So to answer your question, I would hope
13 that in the next few months we'll be in a position
14 to have completed that full analysis and also be in
15 a position to be at the early stages of being able
16 to talk about options, recommendations, and things
17 of that nature.

18 REPRESENTATIVE STEIL: Thank you.

19 I would urge the Department to try and
20 complete that work so that we can act legislatively
21 within this session on the REAL ID Act, because we
22 have to do House and Senate and we have to get the
23 Governor, and we really need to do that, I think,
24 before we get into the next session, which could
25 well put us beyond the extension date. So I think

1 we need to make those decisions before then.

2 The second question is, in my quick analysis
3 of the regulations, it seems to me that, as it
4 affects Pennsylvania anyway, we have to worry more
5 about the implementation and its guidelines rather
6 than the actual mechanics of a REAL ID license. Is
7 that your impression also?

8 DEPUTY SECRETARY MYERS: I would say from
9 the standpoint of those process changes, that's an
10 issue that we're looking at right now. For example,
11 one of the requirements is that we do the photo up
12 front, if you will. Right now when you go into a
13 driver licensing center, you come in, you present
14 the documentations that we noted earlier -- your
15 birth certificate, Social Security card,
16 identification as to where you live -- and once all
17 that has been embedded and you've been approved, we
18 then send you to get your picture taken.

19 In Pennsylvania, that's obviously then going
20 to be a change for us if the photo is required up
21 front. We need to work through how that process is
22 going to work, how it's going to impact our
23 customers. We understand the reason for it. We
24 think that it's a good idea from the standpoint of
25 being able to capture the photo, so that if someone

1 comes in with fraudulent documents, we already have
2 their photo on file.

3 So if we find that their documents are not
4 acceptable and they run out the door, we know that
5 if that person comes back in, because of our
6 abilities with the technology that I mentioned
7 earlier with the facial recognition, we'll know that
8 that person has been in before, presented fraudulent
9 documents, and that will be one way of being able to
10 stop that individual.

11 The principles, again, the principles of
12 REAL ID we think are good and we recognize those,
13 but we have to work through many of those processes
14 as to how we would deploy.

15 REPRESENTATIVE STEIL: Thank you, Mr.
16 Chairman.

17 CHAIRMAN THOMAS: Thank you.

18 Representative Gillespie.

19 REPRESENTATIVE GILLESPIE: Thank you, Mr.
20 Chairman.

21 I just have a couple questions, but before I
22 ask the question, I would like to correct the
23 record. I inadvertently referred to Chairman Steil
24 as Chairman Adolph. I guess I had Professional
25 Licensure on my mind in my opening comments. I'd

1 just like to correct the record, and speaking on
2 behalf of Representative Steil.

3 As I also mentioned in my opening comments,
4 I have some constituents here that have some
5 concerns, and on their behalf, I would like to ask a
6 couple of questions to Mr. Myers.

7 DEPUTY SECRETARY MYERS: Absolutely.

8 REPRESENTATIVE GILLESPIE: Since taking
9 pictures, still or video, of individuals violates
10 some religious tenets of Pennsylvania's citizens,
11 does implementation of the REAL ID Act not violate
12 freedom of conscience addressed in section 3 and
13 section 26 of Article 1 of the Pennsylvania
14 Declaration of Rights?

15 DEPUTY SECRETARY MYERS: Oh, I don't profess
16 to be a constitutional expert when it comes to a
17 question of that nature. I can tell you, however,
18 that the REAL ID Act allows for flexibility. There
19 is nothing in the REAL ID Act that requires every
20 single individual within its State to be issued a
21 REAL ID product.

22 REPRESENTATIVE GILLESPIE: Okay.

23 DEPUTY SECRETARY MYERS: The State can
24 decide that individuals can be issued a regular
25 driver's license; it just simply can't be used for

1 getting on a commercial aircraft or the other two
2 items that we mentioned. So in that particular
3 instance, I think that really addresses the issue
4 that you raised.

5 REPRESENTATIVE GILLESPIE: Again, I'm not
6 going to hold your feet to the fire about being a
7 constitutional expert, but a followup question to
8 that: Does not the wholesale video imaging and
9 biometric systems such as FaceEXPLORER facial
10 recognition software and other such systems being
11 implemented by PENNDOT through a private firm not
12 violate section 8, Article 1, of the Constitution?

13 DEPUTY SECRETARY MYERS: Well, again, I'm
14 not a constitutional expert, but I will tell you
15 that from the standpoint of issuing a driver's
16 license, as I think you all know, the law says that
17 issuing a driver's license is a privilege. And when
18 one comes and fills out all the forms and requests a
19 driver's license or an ID card, they are giving
20 permission from that standpoint for us to do the
21 things we need to do from the standpoint of
22 deploying our responsibility as the Department of
23 Transportation to issue a driver's license or an ID
24 card.

25 REPRESENTATIVE GILLESPIE: Thank you, Mr.

1 Chairman.

2 CHAIRMAN THOMAS: Thank you.

3 Representative Perry.

4 REPRESENTATIVE PERRY: Thank you, Mr.

5 Chairman.

6 Secretary Myers, thank you for your time and
7 expertise. A few questions.

8 Do you know if you can tell me how much
9 involvement the State or the Department had in the
10 genesis of this plan, so to speak, from the start?
11 Were you involved at all? Were you asked to
12 participate?

13 DEPUTY SECRETARY MYERS: I will tell you
14 that -- and I've known Mr. Williams, Director
15 Williams, for a period of time now, obviously -- I
16 quite honestly have never found a Federal official
17 who had made themselves more available than Director
18 Williams has. He has done a great job in
19 communicating. We don't always agree on everything,
20 as I'm sure other jurisdictions don't, but the input
21 that Pennsylvania has had has been twofold: one
22 directly through to Homeland Security, giving our
23 thoughts through the comments that we submitted back
24 in May of 2007; but also working very closely with
25 the American Association of Motor Vehicle

1 Administrators, of which PENNDOT is a member, which
2 represents the jurisdictions throughout the United
3 States as well as many of the territories. They
4 have worked very closely with Homeland Security as
5 well.

6 And I think, quite frankly, that many of the
7 changes that you see in the final regulations are
8 due to Homeland Security hearing many of the
9 concerns that were raised by jurisdictions on those
10 early comments that were made back in May of this
11 year.

12 REPRESENTATIVE PERRY: Okay. And just to be
13 clear, that is May of 2007?

14 DEPUTY SECRETARY MYERS: Correct.

15 REPRESENTATIVE PERRY: But the plan was
16 conceived prior to that. We're talking at that
17 point kind of going to implementation. I'm
18 wondering what input the Department had, if any, or
19 the State had, if any, in the crafting of the plan
20 at the Federal levels.

21 DEPUTY SECRETARY MYERS: Oh, from the
22 standpoint of REAL ID itself, the Act?

23 REPRESENTATIVE PERRY: Right.

24 DEPUTY SECRETARY MYERS: I believe that the
25 Act came out of the efforts of the 9/11 Commission,

1 and that's primarily the foundational---

2 REPRESENTATIVE PERRY: Okay. All right.

3 And I'm just showing my ignorance here
4 maybe, but I'm wondering, is there a tracking chip
5 of any kind -- RF, GPS, otherwise -- in the Federal
6 plan driver's license example and/or the State one
7 as you currently move towards tightening up the
8 system?

9 DEPUTY SECRETARY MYERS: No, not in the REAL
10 ID.

11 REPRESENTATIVE PERRY: Not in the REAL ID.
12 How about---

13 DEPUTY SECRETARY MYERS: Pardon?

14 REPRESENTATIVE PERRY: How about the States
15 and the State-owned even if they don't comply with
16 REAL ID?

17 DEPUTY SECRETARY MYERS: Not in the States
18 either. There is discussion, and you've probably
19 heard discussions about WHTI, which is the program
20 between Canada and the United States for the easy
21 access of drivers across the Canadian border, and
22 there is a chip that is in those driver's licenses,
23 but that is not something that Pennsylvania is
24 participating in.

25 REPRESENTATIVE PERRY: And I know you

1 haven't testified and I apologize, but it's
2 something that is not included in the REAL ID
3 driver's license plan, so to speak, at this point?

4 MR. WILLIAMS: No chip and no plan for a
5 chip.

6 REPRESENTATIVE PERRY: Okay. I've looked
7 through your testimony and it looks like PENNDOT has
8 been pretty extensive in their security measures.
9 Can you tell me -- I know it's nearly a 300-page
10 document that you just got a few days ago -- what
11 are the major differences in the actual license that
12 you can tell me, if you can tell me now, between
13 what Pennsylvania is currently doing, proposing, and
14 what the REAL ID---

15 DEPUTY SECRETARY MYERS: Well, as an
16 example, as I noted in my testimony, Pennsylvania
17 currently includes an overt, covert, as well as
18 forensic security features. Those are three items
19 that are called for within the REAL ID. So from
20 that standpoint, I would think that we would already
21 meet compliance of that.

22 Now, of course there's a certification that
23 needs to be sent in to Homeland Security, but I
24 would expect that that would meet that requirement,
25 as an example.

1 REPRESENTATIVE PERRY: Okay. One final
2 question, Mr. Chairman, if you'll indulge me.

3 CHAIRMAN THOMAS: Sure.

4 REPRESENTATIVE PERRY: Do you know -- I know
5 we filed for the extension and it's been granted --
6 if there's any financial penalty at this point for
7 noncompliance during that period, and what is the
8 financial penalty afterwards if we choose not to
9 comply?

10 DEPUTY SECRETARY MYERS: Yeah; I agree there
11 needs to be some clarification in that and that
12 there is no financial penalty.

13 REAL ID, it is for the most part unfunded,
14 and I know that that is one of the discussions that
15 has been over and again that a number of people have
16 raised, other than the grant moneys that were
17 mentioned, the \$31 million plus the \$50 million in
18 grant money, plus the ability to be able to use 20
19 percent of the State's Homeland Security funds.

20 But essentially, based upon the numbers that
21 we've estimated, at one point in time we had
22 estimated approximately \$85 million. When the draft
23 regulations came out, we thought that it would be
24 even substantially higher than that. We don't know
25 what the number is now looking at the changes that

1 have been made, and that's what we are working
2 toward.

3 But the issues associated with this being a
4 mandate, Pennsylvania, as any other jurisdiction,
5 can opt out. The downside to opting out is that the
6 citizens of Pennsylvania would not have a REAL ID
7 for the purposes of getting on an airplane or into
8 those Federal buildings. But as Director Williams
9 has pointed out, there are other documents that can
10 be used.

11 REPRESENTATIVE PERRY: Right. But no
12 financial penalty?

13 DEPUTY SECRETARY MYERS: There is no
14 financial penalty for not participating.

15 REPRESENTATIVE PERRY: So the citizens have
16 to decide whether they want to produce a passport to
17 get on or other form of documentation to get on an
18 airplane or go to the Federal courthouse. I doubt
19 many are going to nuclear power plants on a regular
20 basis. I don't see that necessarily as a hardship.
21 But Pennsylvania citizens have to decide whether
22 they want to infringe upon their freedoms at that
23 level or provide other documentation based on what
24 you testified today.

25 DEPUTY SECRETARY MYERS: Correct.

1 REPRESENTATIVE PERRY: Thank you, Mr.
2 Secretary.

3 Thank you, Mr. Chairman.

4 CHAIRMAN THOMAS: Thank you.

5 Representative Milne.

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

8 Mr. Secretary, thank you for being here this
9 morning. You led us through a number of standard
10 operating procedures that PENNDOT is already
11 following in terms of issuing a driver's license, so
12 I think that was a really helpful perspective to get
13 a sense of how this system is currently operating.

14 My question then is, what is it that would
15 be the advantage to Pennsylvania of opting in or
16 accepting the REAL ID program, besides avoiding the
17 negative of the potential inconveniences to
18 Pennsylvania citizens. But beyond that, what is it
19 that would make us want to get into REAL ID? What
20 would it do for us that we are not already doing or
21 prepared to do as a State?

22 DEPUTY SECRETARY MYERS: Well, I think that
23 answer is better served at a point in time when
24 we've done a full analysis of the regulations. I
25 don't feel right now is the time to say that these

1 are all the things that would be a benefit, because
2 we have not had a full opportunity to be able to go
3 through in detail and be able to go through each of
4 those items.

5 I can assure you, and I know the question
6 was raised to ask us to move this as quickly as
7 possible. I have a staff of individuals who are
8 meeting on this issue on a daily basis, going
9 through the regulations. This is certainly on the
10 front burner.

11 REPRESENTATIVE MILNE: Okay.

12 DEPUTY SECRETARY MYERS: It is something
13 that we clearly know that the sooner we get our
14 analysis done, the better.

15 REPRESENTATIVE MILNE: I don't mean to
16 interrupt, but, I mean, I understand that you have
17 not had a chance to do a detailed analysis, and I
18 certainly don't expect a chapter-and-verse synopsis
19 of that situation.

20 DEPUTY SECRETARY MYERS: Okay.

21 REPRESENTATIVE MILNE: But just in the big
22 picture vision, why would Pennsylvania want to go
23 into this program?

24 DEPUTY SECRETARY MYERS: Well, I think from
25 the standpoint of security and those issues related

1 to making sure that the one driver's license, one
2 individual concept is to make sure that only one
3 individual has that driver's license under that
4 identification. We work very closely with other
5 States, but certainly there is always room for
6 improving those types of communications.

7 As I said earlier, we've added a number of
8 security features that are included in the REAL ID
9 Act, not because they were in the REAL ID Act but
10 because we thought they were a good idea.

11 REPRESENTATIVE MILNE: Right.

12 DEPUTY SECRETARY MYERS: So I believe from
13 the standpoint of looking at the big picture and a
14 high level that it's important that Pennsylvania, as
15 it is for any other jurisdiction who is issuing a
16 driver's license or an ID card, continues to improve
17 the security features of the product, continues to
18 improve how we protect not only our facilities but
19 as importantly, if not more importantly, how we
20 protect the personal information of those
21 individuals, and that we constantly look for ways to
22 enhance that security.

23 I certainly, from the standpoint of many of
24 the things that are identified within REAL ID,
25 again, as I said earlier, we certainly support the

1 principles of REAL ID.

2 REPRESENTATIVE MILNE: Sure, and I
3 appreciate your response and understand your
4 situation as you work through the analysis.

5 DEPUTY SECRETARY MYERS: Thank you.

6 REPRESENTATIVE MILNE: I know Mr. Williams
7 hasn't testified. I would just raise the
8 observation that, and I'm not challenging your
9 explanation of where your Department is; I
10 appreciate what you're trying to do, but that's
11 where I am trying to reconcile. I agree with the
12 goals about the security, a couple other potential
13 achievements we can accomplish through REAL ID---

14 DEPUTY SECRETARY MYERS: Right.

15 REPRESENTATIVE MILNE: ---but what I'm
16 trying to reconcile is, and maybe Mr. Williams can
17 enlighten us as he gets through his testimony, to be
18 fair to him, why we can't do that at the State
19 level. Why do we have to potentially get into REAL
20 ID? I don't know what the advantages are. That's
21 the gap that I'm not seeing quite yet, and I
22 certainly would be open to being educated on that
23 matter.

24 Thank you.

25 CHAIRMAN THOMAS: Thank you, Representative.

1 Let me acknowledge another member of the
2 Committee, the Honorable Bill Keller from
3 Philadelphia County. We're glad to have him.

4 Time is running. We need to hear from Mr.
5 Williams. The Chairman has yielded to the members
6 for questions. I haven't raised any questions, so
7 what I'm going to try to do is lay some concerns out
8 that I have, and hopefully this will be able to
9 answer some of those concerns in his testimony.

10 One of the concerns is about what
11 participation, if any, does Pennsylvania have in
12 crafting the 2005 Act, which gave rise to REAL ID.

13 Secondly, I'm concerned about the growing
14 population of elderly people and disabled people in
15 Pennsylvania who would not be able to get to these
16 photo ID centers or these limited locations to be
17 processed.

18 Thirdly, I'm concerned about what systems
19 are in place, if any, to make sure that
20 Pennsylvanians are fully aware of this new law and
21 how this new law is going to impact them.

22 Fourth, I'm concerned about what options, if
23 any, are currently in place or can be put in place
24 to change the law as it is currently drafted.

25 I know that there is a new group of members

1 in the United States House, some new members in the
2 United States Senate, and I pretty much know that
3 come January 20 of 2009, the same person in the
4 White House -- or that person in the White House
5 will not be the same person as is there now. So in
6 light of that, what can Pennsylvania do, what can
7 happen to change things?

8 And my last concern would run to, it's my
9 understanding that the extension that was requested
10 and approved to December 31 of 2009 did not require
11 an acknowledgment of compliance by the Commonwealth
12 of Pennsylvania. At what point does the Department
13 of Homeland Security say to Pennsylvania and all
14 other States that you either have to get on board or
15 let your residents know that things have changed?

16 And on the funding side, will there be any
17 more money for implementation? And how do counties
18 have some say-so in whatever system Pennsylvania or
19 any other State plans to use and satisfy and be
20 compliant with the REAL ID Act?

21 So those are some of the questions that I
22 wanted to raise to PENNDOT and to Homeland Security.
23 But let me officially welcome you to this great
24 State and to the great Intergovernmental Affairs
25 Committee of the Pennsylvania House of

1 Representatives. Glad to have you.

2 MR. WILLIAMS: Well, thank you, sir.

3 (Applause.)

4 CHAIRMAN THOMAS: Darrell Williams.

5 MR. WILLIAMS: Thank you.

6 Chairman Thomas and distinguished members of
7 the Committee, thank you for the opportunity to
8 appear before you today to discuss REAL ID.

9 As you may know, REAL ID is based on a
10 recommendation of the 9/11 Commission. It is a
11 recommendation to help deter future terrorist acts
12 that the Department of Homeland Security strongly
13 supports.

14 Further, one of Secretary Chertoff's
15 priorities for 2008 is secure identification, and
16 REAL ID is a core program within that objective. As
17 we move forward this year, it is the Department's
18 hope that States will work in partnership with us on
19 this initiative.

20 On page 390 of the 9/11 Commission Report,
21 it states, "Secure identification should begin in
22 the United States. The federal government should
23 set standards for the issuance of birth certificates
24 and sources of identification, such as driver's
25 licenses. Fraud in identification documents is no

1 longer just a problem of theft. At many entry
2 points to vulnerable facilities, including gates for
3 boarding aircraft, sources of identification are the
4 last opportunity to ensure that people are who they
5 say they are and to check whether they are
6 terrorists."

7 All but one of the 9/11 hijackers acquired
8 some form of U.S. identification document. The
9 remaining 18 hijackers obtained 30 driver's licenses
10 and State identification cards, some fraudulently.
11 The hijacker who crashed American Airlines Flight 77
12 into the Pentagon, Hani Hanjour, had IDs from three
13 States.

14 Quite simply, driver's licenses provide
15 terrorists cover to operate within the United
16 States. The U.S. intelligence community knows that
17 fraudulent documents are integral to a terrorist's
18 modus operandi. In fact, Mohammad Atta was an
19 expert document forger trained by his superiors
20 within Al-Qaeda, and the hijackers used a total of
21 364 aliases, including different name spellings.

22 I am happy to report that the Department
23 announced a final rule for REAL ID that took into
24 account many of the inputs by States, driving down
25 costs to States by 73 percent, all the while

1 maintaining the Homeland Security objectives we
2 originally set out to achieve.

3 The initial response to the final rule has
4 been very favorable. As of today, 27 States
5 representing over half the U.S. population have
6 already requested extensions to work toward REAL ID
7 compliance -- and more are coming.

8 I would like to walk through a few different
9 issue areas with you, including requirements of the
10 final rule and compliance timeliness; funding; DMV
11 database connectivity; and privacy improvements in
12 the rule.

13 First, the requirements of the final rule.
14 DHS recognized that despite a State's best
15 intention, not one could be compliant by the May
16 deadline under the proposed rule. Therefore, States
17 have been given the option to ask for an extension
18 through December 31, 2009.

19 During that time, a series of 18 benchmarks
20 must be met. Attached to my testimony is the list
21 for your information. If States who have acted in
22 good faith and have achieved the 18 benchmarks need
23 a little extra time to become fully compliant, they
24 can request a second extension until May 11, 2001.
25 By this time, all States within the program must

1 begin issuing fully compliant REAL ID licenses.

2 Another key element of the final rule,
3 phased enrollment periods. Individuals born on or
4 after December 1, 1964, desiring a REAL ID for
5 official purposes will need to have the ID by
6 December 1, 2014. All other persons will have until
7 December 1, 2017. This approach gets secure
8 credentials to those more likely to use fake IDs
9 while making compliance by the States easier.

10 Approximately 40 percent of the U.S.
11 population will have until December 2017 to enroll,
12 thus lowering the costs of the program
13 substantially. As a result, States will not have to
14 hire additional personnel or build additional
15 facilities, as projected earlier.

16 Now funding. As stated earlier, with the
17 help of State stakeholders like the legislators, DHS
18 developed a final rule at one-fourth the initial
19 projected costs. The average increase per card
20 issuance is about \$8. So in Pennsylvania, with a
21 4-year license, that comes out to about an extra \$2
22 per year.

23 Additionally, the Department currently has a
24 grant announcement open in excess of \$80 million for
25 REAL ID funding for States. Secretary Chertoff is

1 also allowing each State to use up to 20 percent of
2 its Homeland Security grant funds for REAL ID
3 compliance. States truly wishing to be compliant
4 should be able to find additional moneys in these
5 grant funds.

6 DMV database connectivity. I'd like to
7 start upfront by saying REAL ID is technically
8 feasible. As you will see by the appended chart,
9 "System Connectivity by State," there is widespread
10 activity being undertaken throughout the country by
11 States to improve their standards for issuing ID
12 cards.

13 Forty-seven of the States and the District
14 of Columbia are connected to the SSOLV, Social
15 Security On-Line Verification, database operated by
16 the Social Security Administration. Twenty-eight
17 States are signed up to use SAVE, Systematic Alien
18 Verification for Entitlements, a DHS database, and
19 most other States are entering into memoranda of
20 understanding with DHS to begin this process.

21 In fiscal year '06, participating State DMVs
22 ran 1.2 million queries against the SAVE system.
23 Three State DMVs and 10 vital records agencies are
24 involved in a pilot with National Association for
25 Public Health Statistics and Information Systems,

1 NAPHSIS, to check birth certificates via the EVVE,
2 Electronic Verification of Vital Events, database.
3 Approximately 85 percent of the birth information
4 dating back to 1935 is contained on this system.

5 Finally, the State Department will be
6 developing the system to permit DMVs to
7 electronically verify that a passport an individual
8 presents to the DMV has been lawfully issued. Work
9 here is still ongoing, but we have been fully
10 engaging with States on this important matter.

11 How does Pennsylvania fare with respect to
12 DMV connectivity? Very good. Pennsylvania is
13 connected to Social Security's database and is one
14 of the 28 States with an MOU to check with DHS on
15 lawful status. Connection to the database with
16 birth certificate records, I'm pleased to announce,
17 is being paid by a DHS grant for all States.

18 Returning to the issue of Social Security
19 number verification, a State audit report from 2007
20 showed 27,000 people in North Carolina used bogus
21 Social Security numbers when applying for a driver's
22 license or State ID. About half of these belong to
23 persons that were shown as deceased in SSA records.
24 I'm sure Pennsylvanians would not want their Social
25 Security numbers used in a similar fashion, and REAL

1 ID will help ensure that it is not.

2 Now privacy. There have been concerns
3 voiced about REAL ID creating a national
4 identification card and national database. These
5 concerns are simply not true. The final rule
6 maintains the existing practices of how information
7 is stored, collected, and disseminated at the State
8 and local level.

9 The Federal government will not have any
10 greater access to the information than it already
11 does for law enforcement purposes. And as for a
12 national ID card, driver's licenses will still be
13 State issued. The final rule even allows
14 flexibility in card design and security features
15 used on the card.

16 At this time, I'd like to give you a
17 line item by line item overview of the privacy
18 improvements in the rule.

19 One, name history not stored in
20 Machine-Readable Zone, MRZ. It offers greater
21 protection by not having additional personal
22 information beyond what is on the face of the card
23 in the two-dimensional barcode.

24 Two, elimination of financial history check
25 for DMV workers. It protects the privacy interests

1 of DMV workers since their personal financial
2 information is not exposed to their employers, and
3 it eliminates potential union and legal issues.

4 Three, greater ability to suppress address
5 based on State law or court orders. It provides
6 greater flexibility for States to protect
7 confidential address information for protected
8 classes such as domestic violence victims, and it
9 allows for display of an alternative address if
10 permitted by the State.

11 Four, States cannot phish for info in other
12 States' databases. This is a key measure to protect
13 personal data from DMV workers and prevents DMV
14 workers from accessing information about people in
15 another State without an authorized work reason. It
16 also provides for audit and accountability.

17 Five, data security and access addressed.
18 Use of personal information must be consistent with
19 the Driver's Privacy Protection Act, DPPA, and there
20 are key provisions to ensure that the personal
21 information provided to the DMV is not misused by
22 DMV workers and cannot be hacked by outsiders.

23 Six, ability to redact birth certificate
24 info. It protects personal information that is not
25 necessary to establish an individual's name and date

1 of birth.

2 Seven, privacy best practices to be
3 published at same time as rule. It gives States a
4 roadmap for additional privacy measures to take that
5 are not required by REAL ID but will enhance the
6 privacy protections for the public.

7 Eight, issue of third-party skimming of data
8 clearly raised for State action. It raises a key
9 privacy issue that was outside the scope of the
10 rulemaking so that States have options about how to
11 address this issue.

12 Nine, consideration of encryption of MRZ
13 down the road as technology improves. It ensures
14 that future technology solutions can be used to
15 enhance privacy without requiring DHS to go through
16 a lengthy rulemaking process.

17 Finally, let's take a moment to discuss a
18 concern near and dear to the hearts of most
19 Americans -- identity theft. According to the
20 Federal Trade Commission, there has been a
21 791-percent increase in reported instances of
22 identity theft from 2000 to 2006. Now, REAL ID will
23 make it much more difficult for fraudsters and
24 identity thieves to steal your identity. Instead of
25 countless Social Security numbers being used to

1 create false identities, there will be one record
2 assigned to a driver's license.

3 Despite the loyal opposition led by the ACLU
4 asserting that there will be rampant increases in
5 identity theft, common sense prevails. There will
6 not. Only in Washington can a program designed to
7 enhance the authentication of identity documents be
8 construed as leading to more identity theft.

9 The opposition is advocating insecure
10 identification, not secure identification. And
11 secure identification -- that is, verifying that the
12 identity documents make it into the right hands or
13 that persons are in fact who they claim to be before
14 issuing identity documents -- equaling increased
15 identity theft is a contradiction in terms.

16 The Center for Identity Management and
17 Information Protection based at Utica College
18 conducted an analysis of Secret Service identity
19 theft cases that revealed 35 percent of the time, a
20 fraudulent driver's license was used. REAL ID will
21 help combat identity theft, period.

22 The Fraternal Order of Police supports REAL
23 ID, saying it's a public safety issue. Without
24 secure identification, it "places both the officer
25 and the public he is sworn to protect in greater

1 danger." The Major County Sheriffs' Association
2 supports REAL ID, saying "Secure and protected
3 identification is critical in our efforts to keep
4 our Country and its citizens safe." And most
5 importantly, 82 percent of the American public say
6 "favor" when asked what they think about new rules
7 for the issuance of driver's licenses designed to
8 combat terrorism and identity theft. That's from
9 Public Opinion Strategies poll dated September 2007.

10 To echo the words of the 9/11 Commission,
11 "For terrorists, travel documents are as important
12 as weapons." The National Intelligence estimate
13 from July provides a chilling reminder for the need
14 to act now by concluding that Al-Qaeda was
15 intensifying its efforts to place operatives inside
16 the United States.

17 Thank you, Mr. Chairman, for the opportunity
18 to appear before the Committee today. I would be
19 delighted to answer any questions that the Committee
20 may have.

21 REPRESENTATIVE BUXTON: Thank you, Mr.
22 Williams.

23 Are there any questions by the members?

24 Representative Josephs is recognized.

25 REPRESENTATIVE JOSEPHS: Thank you, Mr.

1 Chairman.

2 I think Mr. Williams heard my question to
3 Mr. Myers. If you would let me know how Homeland
4 Security is going to deal with individuals whose
5 birth certificate gender does not match the gender
6 that they appear to be.

7 MR. WILLIAMS: Well, for that particular
8 issue, the way we've rewritten the rules is to allow
9 States the maximum flexibility to handle issues such
10 as like transgender.

11 In regard to the gender identity on the
12 actual credential itself, a lot of the
13 recommendations for what should be on the front of
14 the card, to include name or any other identity
15 information, really came from a number of
16 individuals that participated in the rulemaking
17 process but also provided input.

18 REPRESENTATIVE JOSEPHS: Okay.

19 MR. WILLIAMS: Some of those were like law
20 enforcement individuals, some of those were a number
21 of privacy-oriented groups that participated, and a
22 number of States participated as well.

23 REPRESENTATIVE JOSEPHS: I see.

24 MR. WILLIAMS: The recommendations that were
25 given to Homeland Security and the ones we adhere to

1 in regard to gender was to have a requirement on the
2 license of the card for the sake of identity
3 purposes to help law enforcement and other
4 individuals facilitate who the proper and rightful
5 holder of the card is.

6 REPRESENTATIVE JOSEPHS: I see.

7 MR. WILLIAMS: However, how a State
8 adjudicates the gender issue will be left to the
9 State, and what we'll ask is under this exceptions
10 process, please give us written information as to
11 how you adjudicate those issues.

12 REPRESENTATIVE JOSEPHS: Thank you.

13 If I might ask, you were talking about the
14 fact that people might use a passport or another
15 form of identification for access to various
16 facilities. How long will that leeway last into the
17 future? Forever? Or at some point do you
18 anticipate the Federal government will say, you must
19 have a national driver's license?

20 MR. WILLIAMS: For me, of course, I'm the
21 implementer of the rule as it stands today. What
22 the future holds, I really can't predict.

23 REPRESENTATIVE JOSEPHS: Sure.

24 MR. WILLIAMS: We have talked to a number of
25 organizations, for example, and individuals, and in

1 some cases there's a lot of misinformation out in
2 the community that suggests, for example, you will
3 need a REAL ID to establish a bank account at a
4 financial institution. Well, that's not true.

5 REPRESENTATIVE JOSEPHS: Okay.

6 MR. WILLIAMS: However, as we have talked to
7 a number of other institutions, they suggest that
8 they do cherish the thought of a more secure
9 credential, a credential they have more faith in,
10 when a person presents it, that it is who they say
11 they are. So which action they may take, I'm not
12 sure.

13 REPRESENTATIVE JOSEPHS: What you're saying
14 then is if I don't have a Federal driver's license
15 to get into the Federal court building in
16 Philadelphia -- and I am an attorney, I should say;
17 I don't practice, but I do have reason to be there
18 -- I could bring my passport, assuming I have one,
19 or birth certificate, assuming I can find that, and
20 you have no idea really, we don't know right now,
21 none of us know, how long I could use that passport
22 or that birth certificate and still get into a
23 Federal courthouse.

24 MR. WILLIAMS: Okay. Well, two things.
25 One, I would not say you could use a Federal

1 identification. This program is not a Federal
2 identification. States issue driver's licenses and
3 ID cards, so it would be a State's choice as to how
4 they're going to manage, orchestrate, and issue
5 driver's licenses or identity cards.

6 In regard to the individual facilities, what
7 types and forms of identification they require is
8 still basically up to them. For example, there are
9 a number of Federal facilities today that do not
10 require any type of identification whatsoever to
11 enter. If they so choose in the future, it would be
12 their choice as to whether or not they would have a
13 requirement for an identification card versus not.

14 REPRESENTATIVE JOSEPHS: Sir, the hammer
15 that the Federal government is holding over the
16 State is your citizens will not be able to access
17 certain facilities. They will not be able to get on
18 an airplane---

19 MR. WILLIAMS: Well, not---

20 REPRESENTATIVE JOSEPHS: ---without whatever
21 we call this card. You have been saying that it's
22 going to be okay to use some other form of
23 identification. How long will that last? Do we
24 know?

25 MR. WILLIAMS: For example, today -- and

1 many people may not be aware of this -- you can gain
2 access to a commercial aircraft today with no
3 identification whatsoever. You can subject yourself
4 to what is called TSA secondary screening and
5 present no ID card. What you must convince the TSA
6 individual of is that you are not a threat to anyone
7 on that aircraft and you are certainly, I guess, a
8 reliable and standard and non-threatening
9 individual, and they will basically do a risk
10 assessment. So there's no requirement today for an
11 identification card.

12 REPRESENTATIVE JOSEPHS: Can we anticipate
13 how long that lack of requirement will last into the
14 future?

15 MR. WILLIAMS: I can't predict the future.

16 REPRESENTATIVE JOSEPHS: Okay. So then we
17 don't know?

18 MR. WILLIAMS: Yes.

19 REPRESENTATIVE JOSEPHS: Thank you.

20 If I may go to the topic of dollars.

21 MR. WILLIAMS: Okay.

22 REPRESENTATIVE JOSEPHS: You mentioned the
23 fact that this card, license, will cost \$2 a year.
24 Is that \$2 a year the cost to the State, PENNDOT or
25 to the State doing background checks to the

1 individual whose license fee, card fee, may go up,
2 or what is that \$2 a year? Please be more specific
3 for us.

4 MR. WILLIAMS: The \$2 is hard cost to the
5 States, approximately \$2 more per card issuance for
6 all the individuals within a State. How a State
7 chooses to redistribute those costs would be up to
8 the State.

9 REPRESENTATIVE JOSEPHS: So we--- Oh; Mr.
10 Myers.

11 DEPUTY SECRETARY MYERS: I just want to add
12 there that that is something that although I realize
13 that those numbers are in there and have been
14 presented by Homeland Security, clearly we have not
15 finished our analysis to what the actual impact will
16 be to Pennsylvania. And I want to be clear about
17 that, that we need to do that extensive analysis on
18 the cost, and we'll certainly be more than happy to
19 share that information once we come up with it. But
20 I just want to be clear that we have not finished
21 that analysis of what the direct impact will be to
22 Pennsylvania in reference to cost.

23 REPRESENTATIVE JOSEPHS: And when you do
24 that analysis, are you going to include what it
25 might cost the applicant, the individual citizen?

1 DEPUTY SECRETARY MYERS: Yes. Absolutely.

2 MR. WILLIAMS: In that case Mr. Myers makes
3 a great point in that that's an average cost as we
4 look at the 245 million potential drivers and ID
5 holders across the U.S. landscape.

6 REPRESENTATIVE JOSEPHS: Well, the total
7 cost, or what I should say in the spirit of
8 transparency and reform is that I am a board member
9 of the ACLU, and I thank you for mentioning us in
10 your testimony, sir.

11 What the ACLU understands is that about
12 180 million drivers will need these cards, and
13 perhaps more people who want a card and do not drive
14 will get that photo ID which we provide here in
15 Pennsylvania, and that the regulations are going to
16 cost \$9.9 billion.

17 So I can't do the math while I'm standing
18 here, but if you divide \$108 million into \$9.9
19 billion, it is a pretty big number. And then if you
20 divide out the number of people in Pennsylvania who
21 might want a card or a license, then I think we are
22 coming to a huge number. And if PENNDOT is going to
23 do that analysis, I would really appreciate that
24 from that point of view.

25 Thank you very much. I thank the Chairman

1 very much, the minority Chairman, for letting me ask
2 these questions. I am not a member of the
3 Committee. It was a great courtesy, and I
4 appreciate it.

5 REPRESENTATIVE BUXTON: Representative
6 Rohrer.

7 REPRESENTATIVE ROHRER: Thank you, Mr.
8 Chairman, and I, as Representative Babette Josephs,
9 appreciate that I can ask a few questions as well.
10 I have a bill that is in Committee but I am not a
11 member of this Committee, so, Mr. Chairman, I do
12 thank you for that opportunity.

13 And thank you for the granting of these
14 hearings. Obviously, it is of great interest to a
15 lot of people.

16 I have today a couple of questions that I
17 would like to put forward here right now. First is
18 a couple questions to Secretary Myers, if I could,
19 and than a couple to Mr. Williams.

20 Mr. Myers, you mentioned that at this point
21 and made it very clear that the Department is not
22 implementing REAL ID decisions.

23 SECRETARY MYERS: That's correct.

24 REPRESENTATIVE ROHRER: Is there, though, to
25 put it a different way, are there any provisions of

1 REAL ID that the Department is currently
2 implementing? Even though they might be
3 implementing the Act itself, are there provisions of
4 the Act that the Department is currently
5 implementing?

6 DEPUTY SECRETARY MYERS: There are items
7 within the driver's license, as I mentioned earlier.
8 As an example, we have three levels of security,
9 which is the overt, the covert, and the forensic,
10 which we have had for years, that are specifically
11 mentioned in the REAL ID Act.

12 The REAL ID Act requires a reasonable effort
13 to confirm that an image that is in your database,
14 an individual that is in your database, is not there
15 under another name. So the facial recognition would
16 address that particular issue, I believe, although
17 we have not specifically talked to DHS about that.
18 So those are just an example.

19 We have not implemented a front photo at
20 this point in time.

21 REPRESENTATIVE ROHRER: Meaning?

22 DEPUTY SECRETARY MYERS: Meaning that the
23 photo is taken first when the customer comes in as
24 opposed to after all of the documents have been
25 embedded.

1 REPRESENTATIVE ROHRER: In regard to the
2 photographs, you represent the photographs now are
3 digitized.

4 DEPUTY SECRETARY MYERS: Correct.

5 REPRESENTATIVE ROHRER: That you do facial
6 recognition.

7 DEPUTY SECRETARY MYERS: That's correct.

8 REPRESENTATIVE ROHRER: When did that begin?
9 How long has the Department been doing that?

10 DEPUTY SECRETARY MYERS: The 1990s. I don't
11 have a specific year, but again, in the 1990s.

12 REPRESENTATIVE ROHRER: Is there any
13 standard that is being utilized, because in reading,
14 there are different standards utilized for facial
15 recognition photography. What standards are the
16 Department now utilizing in the digitized
17 photographs that are being taken?

18 DEPUTY SECRETARY MYERS: I'm not sure I'm
19 clear on the question. From a technology
20 standpoint, the contractor that we use for the
21 purposes of our software is also the contractor for
22 other States, and so I am going to assume that there
23 is some consistency in the requirements as far as
24 the digital photo that is actually taken.

25 I know that there are requirements as well

1 within the REAL ID Act final regulations, and of
2 course we will have to look to make sure that what
3 we do today would be in compliance with those
4 requirements if we participated in REAL ID.

5 REPRESENTATIVE ROHRER: From your
6 perspective, you may not know the details of the
7 technology on that, but are those standards that are
8 being utilized right now by the Department, are they
9 national standards? Are they international
10 standards?

11 DEPUTY SECRETARY MYERS: The standards that
12 we use---

13 REPRESENTATIVE ROHRER: Standards from the
14 standpoint of---

15 DEPUTY SECRETARY MYERS: A picture. Someone
16 getting their picture taken has to be a frontal
17 picture, obviously, and from the standpoint of how
18 one presents themselves from the standpoint we need
19 to be able to see the full face.

20 REPRESENTATIVE ROHRER: Is it, from the
21 Department's perspective, are the pictures that are
22 now being taken being digitized? Would they be
23 accurately described as biometric photographs?

24 DEPUTY SECRETARY MYERS: It depends upon how
25 you define "biometric." I mean, they are digital

1 photos, just as you would take in your camera that
2 are stored electronically on a server.

3 REPRESENTATIVE ROHRER: And therefore would
4 be machine readable, not human readable. Is that
5 fair to say? They would have to be machine
6 readable.

7 DEPUTY SECRETARY MYERS: Correct.

8 REPRESENTATIVE ROHRER: Just one other
9 question then, and I'm going to have a question for
10 Mr. Williams.

11 You mentioned in your testimony as well
12 about the security of this. Since the Department
13 has been collecting the higher-grade photographs,
14 are those photographs and that data, from a security
15 perspective, maintained fully within Pennsylvania?

16 DEPUTY SECRETARY MYERS: Yes, they are.

17 REPRESENTATIVE ROHRER: Is any of that data
18 in that photograph at all being transferred out of
19 Pennsylvania? Or stored?

20 DEPUTY SECRETARY MYERS: Is it stored out of
21 Pennsylvania? The answer to that is no.

22 REPRESENTATIVE ROHRER: Transferred or
23 stored.

24 DEPUTY SECRETARY MYERS: Well, we share
25 information, as I noted earlier, with many other

1 jurisdictions when it comes to the issuance of
2 driver's licenses. That can occur in two different
3 ways. One would be the data from the standpoint,
4 does somebody have a conviction in another State?

5 We also share with certain States from a
6 pilot program standpoint digital imaging of people's
7 pictures, so that if we have an individual who is
8 coming in from a participating State -- Virginia is
9 one, as an example -- so if we have a resident from
10 Virginia moving into Pennsylvania, our operators are
11 able to call that image up on our screens to see the
12 Virginia driver's license to verify that the person
13 who is standing in front of them is in fact a
14 legitimate Virginia driver's license holder before
15 we would go forward with issuing them a Pennsylvania
16 driver's license.

17 REPRESENTATIVE ROHRER: Okay.

18 DEPUTY SECRETARY MYERS: So we do do that.

19 But the images, those images are not stored
20 anywhere; they are simply exchanged back and forth.
21 But in the case of our images, we have our images on
22 two servers that are in Pennsylvania. One is the
23 primary server; the other is a redundancy.

24 REPRESENTATIVE ROHRER: The only reason for,
25 I guess, asking that question is, and again, you may

1 not have the data, but the Department has entered
2 into a contract with a company, and you did mention
3 the company's name, but is working on the data and
4 some help on that, and in the contract it does say
5 that the data used to be backed up off site in
6 another State in this company. Is that not
7 happening then, or is the contract not---

8 DEPUTY SECRETARY MYERS: We certainly have,
9 as we have for years with various contractors, have
10 a contract with a contractor who supplies the
11 software and hardware computer equipment for the
12 purposes of storing our data but also actually
13 taking the pictures. In fact, we are in the process
14 right now of upgrading all of that equipment.

15 Those servers that I spoke of earlier are
16 in-State, in Pennsylvania. They are part of the
17 contractor's responsibility under their contract.
18 They have a contract with Pennsylvania that runs
19 from July of 2006 to December of 2013. That
20 contract is approximately \$45 million. It covers
21 the issuance of all driver's licenses, all ID cards,
22 for that period of time.

23 REPRESENTATIVE ROHRER: And again, you are
24 stating, though, that there is no data of
25 Pennsylvania driver's licenses being stored off

1 site.

2 DEPUTY SECRETARY MYERS: That's my
3 understanding. We also do security backup tapes,
4 and to the best of my knowledge, those tapes are
5 also in Pennsylvania. But I will certainly be happy
6 to verify that for you, on the tapes.

7 REPRESENTATIVE ROHRER: Okay. Thank you.
8 Perhaps we can discuss that further perhaps
9 afterwards, but I know in the contract it says that
10 one of the provisions is that in fact the data is
11 backed up off site and stored.

12 DEPUTY SECRETARY MYERS: Which it is.

13 REPRESENTATIVE ROHRER: So it is stored off
14 site.

15 DEPUTY SECRETARY MYERS: It is definitely.
16 As I said earlier---

17 REPRESENTATIVE ROHRER: This is important.
18 I thought you said it was not.

19 DEPUTY SECRETARY MYERS: No. For purposes
20 of clarification, there are two servers. One is the
21 primary server; one is a backup server. To your
22 question, though, both of the servers are in
23 Pennsylvania.

24 REPRESENTATIVE ROHRER: So it's not backed
25 up off site, out of State?

1 DEPUTY SECRETARY MYERS: There is no server
2 that is located out of State that has the images and
3 that information on it.

4 REPRESENTATIVE ROHRER: All right. Thank
5 you very much.

6 DEPUTY SECRETARY MYERS: But the question
7 and what I will follow up with you on is the actual
8 backup tapes, which is another security feature that
9 we have. But I'll validate that for you.

10 REPRESENTATIVE ROHRER: Okay. Thank you.

11 CHAIRMAN THOMAS: Any response to the
12 questions that are raised, can you provide it to the
13 Committee and then the Committee will make sure that
14 they get the information?

15 DEPUTY SECRETARY MYERS: Absolutely; yes.

16 REPRESENTATIVE ROHRER: Thank you, Mr.
17 Chairman.

18 Mr. Williams, thank you for being here
19 today.

20 MR. WILLIAMS: Thank you.

21 REPRESENTATIVE ROHRER: We have had someone
22 from Homeland Security here, and your involvement
23 allows the Committee to get some good information
24 from you.

25 One of the things that my constituents and

1 so many folks across the State and across the
2 country have been concerned about in the global
3 sense as well as in the more personal sense, and the
4 question was raised by Representative Josephs
5 earlier, and that is the question of whether or not
6 this grand expansion of REAL ID into an ID card is
7 in fact a national identification card or could
8 become a national identification card by the fact
9 that what is in it or on it or where it goes or used
10 or whatever, and I know you in your testimony were
11 very clear in saying that those concerns about REAL
12 ID creating a national identification card, a
13 national database, are simply not true.

14 From that perspective, the collecting of
15 data and the housing of data is of concern, because
16 no one is really for sure where it goes. The idea
17 of having a card of some type where you have got to
18 have it in order to go somewhere and do some things
19 with it and so forth becomes a concern for many
20 people that it will limit their mobility, it will
21 limit their mobility in terms of perhaps travel, and
22 so those kinds of things are very real to us.

23 I know that the sharing of data as well, as
24 I asked the Secretary, is also another concern.
25 When data is collected, where does it go? Who has

1 access to it? How can we absolutely be sure that
2 personal data such as we have on our driver's
3 licenses, which includes our Social Security number
4 and gender and where we live and criminal history
5 and a lot of other things, that data, if somebody,
6 the wrong person, gets ahold of that data, then in
7 fact we are all harmed.

8 And I know just from a point of interest
9 that Robert Moczynski, who is obviously high up in DHS,
10 some time ago sketched a Federal plan to extend
11 biometric data, to photograph and digitize data. He
12 proposed extending that to Asian and European
13 governments and corporations so as to create a
14 global identity management system.

15 And then there was a second quote that I had
16 found that came as well from Mr. Moczynski that said we
17 are starting the process of biometrifying a good
18 proportion of the world population. Just with that
19 in mind, it just seems like this whole thing is
20 becoming very large and very global in its
21 perspective.

22 A question that I would have then for you in
23 this regard would be this: If the card is not or
24 REAL ID is not to establish a de facto national ID
25 card or it doesn't come that way, what do we call it

1 or how do we as legislators address this issue when
2 Homeland Security just in December signed agreements
3 with the Governors of three States, including
4 Arizona and some others, to use their enhanced REAL
5 ID compatible card as the proof of citizenship and
6 allow movement back and forth between the border,
7 recognized by Canada and Mexico, known as the Pass
8 Card and some other things involved in that? In a
9 case such as that where another country will accept
10 this identification card as entrance into their
11 State or into their country, does it not in fact
12 become not just a national ID card but an
13 international ID card, and I'm just wondering your
14 comment on that. How do we look at another country
15 as to the point of recognizing this REAL ID
16 compliant card? Is that not then in fact an
17 international ID card?

18 MR. WILLIAMS: There are a couple of issues
19 in what you have said, and the first is that we
20 perhaps present some information for separation.
21 One is when you talk about cards to facilitate
22 cross-border travel, that's not REAL ID. You are
23 talking a different program. That is under the
24 Western Hemisphere Travel Initiative, and that is
25 called an Enhanced Driver's License.

1 The requirements for that program are really
2 legislated and completely different than REAL ID.
3 REAL ID is not a cross-border document to facilitate
4 travel. REAL ID is really a minimum set of
5 standards that States are asked to follow so that
6 each State will at least adhere to minimum standards
7 before they issue a driver's license for
8 identification cards to their various citizens.

9 Some of the reasons for this, for example,
10 like one of the questions that came up earlier, what
11 is a benefit for Pennsylvania if Pennsylvania is
12 actually taking a lead in improving its driver's
13 license card and driver's license issuing process?
14 Well, one of the things that I say to many States is
15 that the planes that went into New York and into the
16 Twin Towers did not originate from New York, and
17 that meaning to say that unless there are uniform
18 standards across the entire country, any one State
19 still leaves the rest of the country vulnerable. So
20 therefore, the uniform standards are to ensure that
21 we have uniformity in standards across the nation.

22 You know, Pennsylvania has done a number of
23 wonderful things to improve the process and improve
24 the card. There are many such States that have not.
25 Those States still make your State and your citizens

1 vulnerable to ID theft and other illegal-type
2 activities that REAL ID seeks to reduce or
3 eliminate.

4 Now, getting back to cross border, the EDL,
5 Enhanced Driver's License, is a different program.
6 Now, in Arizona and New York and Washington State
7 and Vermont, they are taking a look at a combination
8 of documents, and one is a REAL ID compliant
9 credential combined with the Enhanced Driver's
10 License features. So we will have one document that
11 can facilitate two different forms of ID: one, for
12 example, to board aircraft, enter Federal facilities
13 or nuclear power plants, which is the REAL ID
14 requirements; the other is to facilitate cross-
15 border travel with an enhanced capability, which is
16 really an RFID chip to facilitate coming across the
17 border much quicker.

18 Now, some States are looking at they would
19 like to combine both. That is a State's choice.
20 Many States do not see the market for such a
21 combination of documents, and for those States, they
22 may opt to have REAL ID only without the Enhanced
23 Driver's License feature.

24 But again, those are two different programs
25 administered by different individuals and really set

1 forth by different laws.

2 REPRESENTATIVE ROHRER: Clarify then for me,
3 if you could, is then REAL ID, are biometrics and
4 the elements that go into that, are biometrics then
5 a part of REAL ID or are they not a part of REAL ID?

6 MR. WILLIAMS: The only entities that the
7 rule or the law talks about that would be construed
8 as a biometric to REAL ID would be the signature and
9 a photograph. Other than that, there are no
10 biometric requirements for REAL ID.

11 REPRESENTATIVE ROHRER: Okay. Would you
12 explain what the photograph is then. What is
13 biometric about the photograph in that part of it?

14 MR. WILLIAMS: REAL ID requires a digital
15 photograph.

16 REPRESENTATIVE ROHRER: And does it have to
17 meet any kind of a standard, or is it just a digital
18 photograph?

19 MR. WILLIAMS: And really, when Mr. Myers
20 spoke earlier about the full-frontal facial view,
21 that's pretty much what REAL ID requires, is an
22 unobstructed view of an individual's face without
23 either head guard that would come down so far as to
24 be able to disguise the individual's head. So for
25 law enforcement purposes, if by chance an individual

1 is stopped, that individual, it could be ascertained
2 that person's identity, but also for any place that
3 that person would want to gain entry to, for
4 whomever the taker of that identification credential
5 is at the time -- a checker, for example, at an
6 airport -- for them to establish that the picture on
7 this document does in fact match the person in the
8 picture so they can verify identity.

9 REPRESENTATIVE ROHRER: So in that degree, I
10 mean, there are terminologies of face mapping, the
11 aspect that if a person's photograph is taken with
12 the plots around it so that in fact what ends up is
13 really the biometric image of that person, is it as
14 accurate, perhaps, as that person's DNA or that
15 person's fingerprint? Is the photograph that REAL
16 ID anticipates or Homeland Security anticipates in
17 that regard, is it of that distinct quality that it
18 is in fact that person's image as would be, and is
19 that distinctively theirs, as would be a DNA or a
20 fingerprint? Is it that---

21 MR. WILLIAMS: I am certainly not a
22 technical expert in regard to photography, or at
23 least to the dimension that you are speaking, but I
24 would not use the term "face mapping." I would not
25 use any technical terms beyond what I have

1 suggested, and that is a full view of the person's
2 face.

3 CHAIRMAN THOMAS: Okay, and I have to jump
4 in here, because we don't want to---

5 REPRESENTATIVE ROHRER: Mr. Chairman, I
6 just---

7 CHAIRMAN THOMAS: We have overused the
8 Council Chambers already.

9 REPRESENTATIVE ROHRER: I will just conclude
10 this one point, if I can, and then I will go on. I
11 just want to conclude this.

12 REPRESENTATIVE ROHRER: The reason for
13 asking the question, Mr. Chairman, and some of these
14 is that I think a lot of the concern that we all
15 share is that, you know, as we get into this from a
16 State level, having to deal with it from having to
17 answer our constituents and understand what is going
18 on, there is a lot that seems to unfold itself and
19 kind of reveal a new revelation as it comes along,
20 and there are aspects of it that are, frankly,
21 troubling from the standpoint that we don't really
22 know all that is there, and the reason, if the
23 Chairman will bear with me here, and the reason for
24 asking that question is that I did see in some
25 cross-referencing in the Federal Registry and the

1 NPRM rules laid out in regard to REAL ID. It says
2 that DHS is proposing -- which this stands, this
3 stands; this is it; it was not changed by the new
4 regs -- is proposing that digital photographs comply
5 with current ICAO standards, which is the
6 International Civil Aviation Organization, and that
7 those standards include certain things. And then it
8 footnotes and says, the footnote, the relevant ICAO
9 standard is ICAO 9303, Part 1, Volume 2,
10 specifically, and then it goes on to say some
11 things: information technology biometric data
12 interchange formats, and then it lays that out.
13 That is the standard, international standard, for a
14 biometric photograph in data collection, and that
15 was my question for asking, because that is
16 international, and my question earlier about whether
17 or not an ID card being used to allow access to
18 another country in fact becomes an international ID
19 card. And I know of no State that REAL ID is taken
20 off of that card, but what I'm saying is that the
21 technology, which is the picture, is international
22 and is in our own Federal Register. That is a part
23 of this law. I look at that and I say, I have
24 questions about that part of trying to fit those
25 pieces in together---

1 CHAIRMAN THOMAS: And I think you have
2 raised a very good point, which we will be taking
3 up, and I don't want people to forget that we will
4 be in Philadelphia, Pittsburgh, Scranton, Erie,
5 before this is over with. So we will explore these
6 issues in much more detail. Thank you.

7 REPRESENTATIVE ROHRER: Thank you.

8 CHAIRMAN THOMAS: Representative Keller.

9 REPRESENTATIVE KELLER: Thank you, Mr.
10 Chairman.

11 Thank you, Mr. Secretary and Mr. Williams.
12 I guess I will start off with the old adage, a
13 little bit of knowledge is dangerous, and I have
14 very little knowledge that I may be very dangerous
15 today.

16 I have some knowledge, and let me start out
17 by saying that after 9/11, I know things must
18 change, and this is a nation where we have to
19 protect ourselves, so let's start down that road.

20 But I have some knowledge of the TWIC
21 program, the transportation workers identification
22 card, and I know that we had a lot of trouble with
23 that and it started and stopped three times. So I
24 just wanted to know, is there any coordination
25 between the REAL ID and TWIC, which, you know, you

1 could find out some of the problems with TWIC and
2 then maybe head them off with the REAL ID.

3 MR. WILLIAMS: The answer to your question
4 is yes. We have got back at DHS what we call a
5 Screening Coordination Office, and all the
6 credentials that DHS is either putting out rules for
7 or following up on in regard to identification
8 technology is shared across that entire spectrum of
9 all the identification programs.

10 So the TWIC program manager, the WAVE
11 program manager, the REAL ID program manager, we do
12 communicate every Friday from 10 until about 12
13 o'clock as we exchange information to make sure that
14 we have got consistency of implementation but also
15 lessons learned. So the answer to the question is
16 yes.

17 REPRESENTATIVE KELLER: And my other
18 question: The TWIC card, I believe, right as of now
19 costs \$140. How does that change from the \$8 that
20 you are projecting for the REAL ID and the extra
21 card, which probably isn't much different than the
22 \$140 that it costs for a TWIC card.

23 MR. WILLIAMS: Okay. I can't attest to the
24 components of cost for the TWIC card, but for the
25 REAL ID card, again, as we have taken a look, as we

1 have done the economic analysis, you know, citing
2 the amount of driver's license issuances over an
3 approximately 11-year period of time, you know, that
4 total cost is what we are talking about in regard
5 to, if you average it out over the total reissuance
6 process between 2008 and roughly about December
7 2017, it totals out to about \$8.31 per card. That
8 is exactly what it totals out to be, which, for
9 here, is roughly about \$2 if you average it across
10 the board.

11 REPRESENTATIVE KELLER: Is that because of
12 the fund that is subsidizing the cost?

13 MR. WILLIAMS: No. That is just based upon
14 the total program costs divided by the amount of
15 issuances that will be accorded over that 11-year
16 period of time.

17 REPRESENTATIVE KELLER: So I'll be getting
18 to the TWIC manager to find out why we are paying so
19 much for the transportation workers.

20 MR. WILLIAMS: And then for here, now,
21 that's the added cost, approximately \$2 per added
22 cost, to a driver's license already issued. So it
23 is not the total cost of the card; it is just the
24 added averaged out over the 56 jurisdiction
25 territories, and we are going to say 56. The 50

1 States, the District of Columbia, and the
2 territories total out to 56. So if you total up
3 that entire driving license population and
4 identification card population with the amount of
5 issuances, and some will be renewed over that period
6 of time, that is where the total actually comes
7 from.

8 REPRESENTATIVE KELLER: Thank you, Mr.
9 Williams.

10 Thank you, Mr. Chairman.

11 CHAIRMAN THOMAS: Thank you.

12 Representative Gillespie.

13 REPRESENTATIVE GILLESPIE: Thank you, Mr.
14 Chairman.

15 In the interests of time, I just have a
16 couple of other questions that I would like to maybe
17 follow up in letter format to Mr. Myers and Mr.
18 Williams, and I am going to share their responses
19 back to the Committee.

20 CHAIRMAN THOMAS: Okay, and can you make
21 sure that Representative Steil and myself get a
22 copy?

23 REPRESENTATIVE GILLESPIE: Absolutely.

24 CHAIRMAN THOMAS: Okay.

25 REPRESENTATIVE GILLESPIE. Thank you.

1 CHAIRMAN THOMAS: Thank you.

2 Representative Steil.

3 REPRESENTATIVE STEIL: Thank you, Mr.

4 Chairman.

5 A couple of questions. First of all, in the
6 interim benchmarks that are outlined, your 18
7 interim benchmarks that Pennsylvania will have to
8 comply with in this extension period, is there a
9 time frame within which any one of those benchmarks
10 must be complied with?

11 MR. WILLIAMS: Well, the time frame for all
12 18 is prior to December 31, 2009. The time for that
13 is where you must actually apply for certification
14 to be materially compliant with the REAL ID Act.

15 REPRESENTATIVE STEIL: And can you tell me
16 if of those 18 benchmarks, does Pennsylvania already
17 comply with any number of those?

18 DEPUTY SECRETARY MYERS: Yes, we do. In
19 fact, I believe the number is that we comply with 11
20 of the 18.

21 REPRESENTATIVE STEIL: Okay. So we really
22 only have seven more benchmarks to move on. Okay;
23 thank you.

24 The next question is, on this cross-border
25 card that you described, am I correct that the

1 cross-board identification card is voluntary for an
2 individual to acquire in order to aid and enable
3 them to move across the border, unless the State
4 decides to incorporate those standards with the REAL
5 ID standard?

6 MR. WILLIAMS: Well, the card would be
7 voluntary, yes. For REAL ID, also it would be
8 voluntary.

9 The requirements for the card are slightly
10 different than REAL ID. For example, for the EDL
11 card, which is the card we are talking about,
12 Enhanced Driver's License, you must be a U.S.
13 citizen to ask for that card, and of course you will
14 have to meet the certification requirements of the
15 State issuing the card.

16 REPRESENTATIVE STEIL: Okay. The next
17 question goes to, you gave us an entire list about
18 nine reasons why security was so important to REAL
19 ID and how you believed you had managed the security
20 issues involved. Did the Federal law provide for
21 any penalties, either Federal, or does it allow the
22 States to impose penalties for violation of these
23 security standards?

24 MR. WILLIAMS: Well, we will have a
25 compliance audit, and each State will be audited at

1 an interval period of time, and right now we have
2 got that identified as approximately every three
3 years. We will come in and we will take a look at
4 how well a State complies with all the standards of
5 REAL ID to include the privacy and protection of
6 information, and there is no such penalty, financial
7 penalty, if that is what you are asking for, that we
8 will levy upon the State. However, we will look at
9 that particular point in time as to whether or not
10 that State does still impact and certify to be REAL
11 ID compliant.

12 REPRESENTATIVE STEIL: So there are no
13 criminal penalties attached to the violation of any
14 one of these standards?

15 MR. WILLIAMS: For the State, no.

16 REPRESENTATIVE STEIL: And the last question
17 is, could you just describe for us, in your opinion,
18 how does REAL ID enhance the State's ability and the
19 Federal ability to identify illegal aliens?

20 MR. WILLIAMS: Well, it---

21 REPRESENTATIVE STEIL: Or if it does enhance
22 it.

23 MR. WILLIAMS: Yeah. One of the things that
24 REAL ID requires is, before you can actually be
25 issued a REAL ID compliant document is you must

1 verify lawful presence in the United States, and
2 that must be done electronically, which is through
3 our SAVE, which is the Systematic Alien Verification
4 for Entitlements program. So for those individuals
5 who are not lawfully here, who cannot produce the
6 documentation that verifies they are lawfully here,
7 they, of course, could not have a REAL ID compliant
8 driver's license or identification card.

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

11 CHAIRMAN THOMAS: Thank you, Mr. Chairman.
12 Representative Milne.

13 REPRESENTATIVE MILNE: Thank you, Mr.
14 Chairman.

15 I just wanted to return to my previous theme
16 of this working through the rationale for why a
17 State would choose to opt into the Federal ID, REAL
18 ID program, and I agree with our presenters that
19 there is certainly a lot of misinformation out there
20 about when the REAL ID license must be used and for
21 what purposes.

22 On the other hand, I can't help but think
23 this really seems to come down to having this REAL
24 ID program in place to board a plane. Most
25 Americans are never going to go to a nuclear

1 facility, most Americans aren't going to go to a
2 Federal facility, maybe once or twice in their
3 lives, just as a general parameter. So 99 percent
4 of this is really geared at a commercial airline
5 function of REAL ID.

6 Why is it that we can't continue with the
7 present system, maybe with certain security
8 enhancements, that would achieve that same purpose?
9 That really seems to be the one end purpose of REAL
10 ID.

11 MR. WILLIAMS: Well, I would say a couple of
12 things. Of course, gaining access to commercial
13 aircraft would be one. However, the other is, and
14 really probably more importantly is, you will have a
15 document that verifies that you are who you say you
16 are with a high degree of confidence, not just to
17 board a commercial aircraft but anywhere you take
18 that document.

19 If you headed out today, your driver's
20 license basically is your passport to move
21 throughout the country. If you look at the 19
22 terrorists, long before they boarded a commercial
23 aircraft, they used identification cards and moved
24 throughout the entire U.S. landscape to check into
25 various hotels and out, rental cars. So all the

1 equipment, all the tools, that they required to help
2 facilitate in boarding that aircraft or any other
3 destructive ideas they had in mind, you know, those
4 licenses, driver's license or ID card, was really
5 their facilitating tool.

6 The other thing it will help do, in regard
7 to, and these are some of the, I guess, residual
8 benefits, for example, right now if you look at
9 teenage underage drinking, you know, REAL ID and
10 higher standards will help to reduce that. If you
11 look at individuals that fraudulently use
12 identification cards for ID theft, REAL ID will help
13 reduce that. If you look at the individuals, a
14 number of people today use deceased individuals'
15 Social Security numbers to establish an identity,
16 you know, and a person's name who is deceased, and
17 in some cases, in a very short period of time, to do
18 harm, financial harm, to those individuals'
19 families. REAL ID will help deter that.

20 So there are a number of added benefits to
21 include--- The one thing that a State cannot do for
22 itself is, you know, Pennsylvania can take a number
23 of steps for its citizens within the borders of
24 Pennsylvania, but in regard to citizens from other
25 States, Pennsylvania, regardless of how good your

1 credential is, will not adjudicate what those
2 individuals can and cannot do. However, they can
3 bring a driver's license into the State of
4 Pennsylvania, and it will be honored just like a
5 Pennsylvania driver's license would be.

6 So as we take a look at putting out a
7 uniform standard across the nation, that way when a
8 person comes from another jurisdiction, you will
9 have a reasonable idea that they are who they say
10 they are because they have got a more secure
11 credential.

12 REPRESENTATIVE MILNE: And just working on
13 the arguments in favor of the national security
14 occasions for this, which certainly is the strongest
15 argument that one could put out for it, we know that
16 within our system of federalism, it is certainly the
17 Federal government that has foremost responsibility
18 for the national security of this country, and this
19 is a national security issue. Why wouldn't the
20 Federal government be funding this as far as the
21 national war on terror?

22 MR. WILLIAMS: Please don't take this to be
23 a curt answer: You will have to ask Congress that
24 question, because really, Congress is the funders of
25 these programs.

1 Now, we have, and a number of States have as
2 well, gone back to Congress asking for additional
3 funds to help implement REAL ID, but Congress is the
4 ultimate decisionmaker as to how much funding will
5 actually be provided.

6 REPRESENTATIVE MILNE: Thank you.

7 CHAIRMAN THOMAS: Thank you.

8 Going back to this question of airlines,
9 being unable to board planes, within that scenario,
10 aren't we also talking about the Social Security
11 Administration? Aren't we also talking about the
12 United States Department of Health and Human
13 Services and other Federal agencies?

14 MR. WILLIAMS: Okay. If you look at the
15 REAL ID Act of 2005, those entities are not called
16 out by name. Now, is there some thought that once
17 REAL ID is implemented and we have more confidence
18 in the credentials that individuals will have
19 because this REAL ID has been electronically
20 verified through a Social Security number, to verify
21 that the Social Security number, name, date of
22 birth, does match, because it has been verified that
23 the person is in fact lawfully present in the U.S.,
24 it has been verified that the birth certificate that
25 that person used to get a driver's license was

1 electronically verified, do we think that more
2 institutions will later on suggest that we have more
3 confidence in this REAL ID document versus some of
4 the other documents that people bring to it? I
5 think the answer probably would be yes, but there is
6 no requirement explicitly in the law or the rule
7 that states that those organizations will require
8 REAL ID.

9 CHAIRMAN THOMAS: But doesn't the rule talk
10 about Federal facilities?

11 MR. WILLIAMS: It does talk about Federal
12 facilities, but it is those facilities that require
13 a form of identification. Many Federal facilities
14 today you can get at without any identification
15 whatsoever. So it is not suggesting all Federal
16 facilities should immediately incorporate REAL ID or
17 the requirement to show a driver's license to enter;
18 it is just saying that in those facilities that do,
19 if you choose to show a driver's license versus any
20 other document accepted by that facility, it must be
21 REAL ID compliant.

22 CHAIRMAN THOMAS: My second question would
23 run to delayed birth certificates. I have had a
24 number of people in my office who were born in the
25 old South at a time where they did not have

1 glorified statistics, and at least to my knowledge,
2 the only agency that is in a position to provide a
3 delayed birth certificate would be the United States
4 Census Bureau in looking at some records. But even
5 with the Census Bureau, there can be some problems.
6 So my question is, have the Pennsylvania Department
7 of Transportation and/or the Department of Homeland
8 Security taken this into consideration when looking
9 at the whole credentialing aspect of REAL ID?

10 MR. WILLIAMS: Yes, we have, in two ways.
11 One is the final rules suggest that anyone born
12 before 1935 could be exempted from the birth
13 certificate requirement. The other is an exceptions
14 process, that a State, if there is an unusual
15 scenario that that State experiences, they can write
16 an exceptions process to Homeland Security and say,
17 here is our unique condition or circumstance or
18 situation. We will take that into consideration,
19 because the overall principle here is to have States
20 included. It is not to look for mechanisms to
21 exclude States but to include States by taking a
22 look at some of the exceptions that are unique to
23 those jurisdictions and then working with those
24 jurisdictions to take a look at how to include their
25 individuals, because again, the thought is that if

1 we can raise the bar of security across the entire
2 national spectrum, that's exactly what we are trying
3 to do.

4 CHAIRMAN THOMAS: Third question then.

5 We will be electing a Chief Executive
6 Officer for the United States come, well, we will be
7 swearing somebody in on January 20. Is it possible
8 that a new President can look at the recommendations
9 of the 9/11 Commission and basically say, I
10 understand what it is that you want; I just think
11 that your Act as it is currently, implementation as
12 currently conceived is not what we want to do, and
13 make some recommendations?

14 MR. WILLIAMS: First now, you look at REAL
15 ID, it was passed in Congress in 2005, so really, it
16 is a law passed by Congress. Now, what the next
17 legislator may or may not do, I really don't know.
18 We don't anticipate REAL ID would go away, because
19 we anticipate that the national security requirement
20 for a more secure identification process across the
21 entire U.S. landscape will still be present
22 regardless of who the next President will be or
23 regardless of what the next body, congressional
24 body, will be. The requirement will still be there.

25 CHAIRMAN THOMAS: And here is one of the

1 reasons I asked that, is because it is my
2 understanding that the State of New Jersey has
3 maintained that their credentialing for driver's ID
4 might be greater than REAL ID, and therefore, they
5 should not have to go find the money or go through a
6 lot of unnecessary barriers to comply with REAL ID
7 when the standards that they currently utilize might
8 be greater than the standards articulated by the
9 REAL ID Act. And so, you know, I am asking whether
10 a subsequent Congress or subsequent President could
11 basically say that, I see what New Jersey has done,
12 I see what Pennsylvania is doing, and we are
13 satisfied, so we should not strongly require that
14 they comply with REAL ID.

15 MR. WILLIAMS: And actually I think those
16 are really excellent points, because there are a
17 number of States that will have security issuance
18 processes and cards far beyond what REAL ID would
19 require. But REAL ID sets our minimum standards
20 that all States must comply with. So if the State
21 of New Jersey or Pennsylvania or any other State,
22 for example, and there are a number of States who
23 fit in this category, if they have raised the bar of
24 security higher than what REAL ID requires, then we
25 certainly applaud those individuals.

1 However, we still want to make sure we do
2 have commonality and consistency and
3 interoperability across the U.S. landscape so that
4 if an individual from California showed up at a DMV
5 in New Jersey, that that person could in fact be
6 verified that they are who they claim to be before
7 New Jersey issued a driver's license or
8 identification card. Unless there is that
9 connectivity between not just those two
10 jurisdictions but multiple jurisdictions, then that
11 verification process would not occur.

12 CHAIRMAN THOMAS: But without that
13 exemption, I mean, in our particular case with
14 Deputy Secretary Myers, the Secretary of PENNDOT and
15 the executive branch now must run around and try to
16 figure out how to get extra dollars to comply with
17 something that might be greater than what REAL ID is
18 calling for, and so there should be and some have
19 suggested that the regulations should allow for an
20 automatic waiver or exemption to States like
21 Pennsylvania or New Jersey who are already operating
22 on standards greater than REAL ID. And so the
23 minimum standards would only be necessary for those
24 States that have not taken any steps to comply with
25 REAL ID, and I think without that kind of an

1 exception, because I really haven't heard how REAL
2 ID fits into 504, section 504, the Disability Act,
3 nor have, you know, and in Pennsylvania we have this
4 unique situation where we are second only to Florida
5 with our elderly population, and some counties might
6 have elderly populations greater than the State of
7 Florida, and so to that end some have suggested that
8 the law needs to recognize that some States have
9 taken giant steps and should be applauded rather
10 than penalized without financial consequences for
11 noncompliance.

12 MR. WILLIAMS: And I wholeheartedly agree
13 with you. If you take a look at, well, two things.
14 One is, if you take a look at the final rule, it
15 takes into consideration the NPRM was far more
16 prescriptive in nature than the final rule. The
17 final rule allows for a tremendous amount of
18 flexibility. So for those States that have taken
19 progressive steps on their own dime to improve their
20 process, to improve their credential, to do security
21 checks within, it takes that into consideration, so
22 the funds that they have invested are certainly
23 accounted for.

24 The other thing is, we take a look at REAL
25 ID, not just as it was envisioned in 2005. If you

1 look at what States have done since the late 1990s,
2 States have started to progressively improve their
3 processes, improve security, because what REAL ID
4 stands for States have recognized long before 2001.
5 They knew about the lapses in security. They knew
6 about the vulnerabilities of their card.

7 One of the things that State DMVs could not
8 do in many cases was obtain the resources to improve
9 the processes, to improve security. For example, if
10 we take a look at fraudulent identification card
11 processes, a number of fraudulent IDs occur within
12 the DMV, not necessarily imposters outside of the
13 DMV but inside of the DMV. DMV commissioners and
14 directors have known about these problems for quite
15 some time, so as we took a look at writing the final
16 rule, we took that information into consideration.

17 For example, the Association of American
18 Motor Vehicle Administrators, who has really been
19 around since 1933, who has written a lot in regard
20 to highway safety and how to improve safety in
21 driver's license issuance processes, we have taken a
22 lot of comments from them. We had 21,000 comments
23 in regard to REAL ID. A lot of those comments we
24 categorized and then 300 substantive comments
25 changed the rule significantly from what it was

1 based upon not only AAMVA but other States,
2 Pennsylvania as well, to make it a more
3 implementable document to take into consideration
4 the investment States have already made.

5 So the comments you are making, we did take
6 those into consideration so States are not penalized
7 for prior investments.

8 CHAIRMAN THOMAS: So we can tell
9 Pennsylvania to go forward; they are all right
10 without having to comply with REAL ID, since their
11 standards might be greater than the minimum
12 standards required by REAL ID.

13 MR. WILLIAMS: Assuming Pennsylvania would
14 still want to be interconnected with other
15 jurisdictions to verify that when people enter
16 Pennsylvania, that they are in fact who they say
17 they are.

18 I still think, like, for example, when you
19 take a look at Pennsylvania for the fraudulent, the
20 document--- I mean the fraudulent, not fraudulent
21 but the program that you got in regard to facial
22 recognition technology, there are a number of States
23 who, of their own accord, are doing that. I visited
24 North Carolina, oh, about 3 or 4 weeks ago. In
25 North Carolina, they showed me their database where

1 they had one individual with 43 different driver's
2 licenses in that State. The only way they detected
3 that individual was through their facial recognition
4 technology.

5 But the other thing they suggested, not only
6 do they believe that that individual had 43
7 documents within the State of North Carolina, they
8 believed that individual had licenses from South
9 Carolina, licenses from Georgia, and licenses from
10 Florida. The problem was, they could not detect
11 with those States because they didn't have either a
12 national unified program or effort or an exchange.
13 I would suspect that the same thing occurs in the
14 State of Pennsylvania where you have got a number of
15 people here as well as other States.

16 Every State I have gone to, and believe me,
17 I have gone to many over the last 6 months, tell me
18 the same thing over and over and over again. To
19 make this work, we need a unified system of
20 capability where information can be shared to
21 identify these imposters and these individuals who
22 really prey upon us with identification theft.

23 CHAIRMAN THOMAS: Thank you, Mr. Williams,
24 and I guess one last question for Committee members.

25 It is my understanding that compliance or

1 responding to the regulations is not relevant until
2 the regulations are published, and so to that end I
3 would like to ask, when do you think the regulations
4 will be published in the Federal Registry?

5 MR. WILLIAMS: Right now, the date should be
6 January 29, and of course it will be a 60-day period
7 after that before it actually becomes officially
8 approved.

9 CHAIRMAN THOMAS: So we are looking at maybe
10 March?

11 MR. WILLIAMS: For approval, yes.

12 CHAIRMAN THOMAS: Okay.

13 All right. Let me thank---

14 MR. JOHNS: Point of order, Mr. Chairman.

15 MR. LERNER: Mr. Chairman, may I ask one
16 question, please, sir? It's relative to the issue,
17 Pennsylvania included.

18 CHAIRMAN THOMAS: One quick question---

19 MR. LERNER: Thank you, sir.

20 CHAIRMAN THOMAS: ---and the question might
21 require us to follow up.

22 MR. LERNER: Yes, sir. I appreciate your
23 concern.

24 Mr. Williams, is it not true not in the
25 final rules---

1 CHAIRMAN THOMAS: Could you please identify
2 yourself for the record?

3 MR. LERNER: Yes, sir. My name is Mark
4 Lerner.

5 Mr. Williams, is it not true that in the
6 final rules---

7 CHAIRMAN THOMAS: Who are you?

8 MR. LERNER: Mark Lerner.

9 CHAIRMAN THOMAS: And?

10 MR. LERNER: Yes, sir?

11 CHAIRMAN THOMAS: And you are with who?

12 MR. LERNER: The Stop REAL ID Coalition.

13 CHAIRMAN THOMAS: Okay.

14 MR. LERNER: Is it not true, sir, in the
15 final rules, AAMVA is mentioned 150 times.
16 Currently 40, almost all States, belong to what is
17 known as the DLC, including Pennsylvania, the
18 Driver's License Compact. Is it not true now that
19 AAMVA is proposing States join the DLA, the Driver's
20 License Agreement?

21 One of the major differences between the DLC
22 and the DLA is the DLA has provisions in it that
23 would allow Mexico and Canada to participate in the
24 sharing of information.

25 MR. WILLIAMS: Okay; for any AAMVA related

1 questions about what they are soliciting for DLA
2 membership or the DLC, you will have to address that
3 with them. I cannot answer for AAMVA.

4 MR. LERNER: What right does the Federal
5 government have to control what AAMVA does? Does
6 the Federal government have any authority?

7 MR. WILLIAMS: No. AAMVA is a private
8 organization---

9 MR. LERNER: Yeah; that's my point.

10 MR. WILLIAMS: ---so no, I have no control
11 over AAMVA.

12 MR. LERNER: The REAL ID Act, in fact, is
13 being turned over to AAMVA, and AAMVA is being
14 called the backbone. And AAMVA, like the ICAO, is
15 in fact an international organization.

16 MR. WILLIAMS: Okay. But of course I'm
17 guessing you do know that AAMVA is made up by the
18 States and State representation so that all the
19 States that participate in AAMVA are State members.
20 So the board of directors for AAMVA is really made
21 up by the States, the State DMVs.

22 MR. LERNER: Is it not true, though, that in
23 the State of Pennsylvania---

24 CHAIRMAN THOMAS: Wait a minute; wait a
25 minute. You asked a question; he answered the

1 question. We are going to have to move on.

2 MR. LERNER: Okay.

3 CHAIRMAN THOMAS: I will just allow one
4 other question.

5 MR. LERNER: Yes, sir. Thank you.

6 MR. JOHNS: A point of order, Mr. Chairman.
7 Will you please---

8 CHAIRMAN THOMAS: Will you please identify
9 yourself?

10 MR. JOHNS: My name is Ralph Johns. I'm
11 from southern Lancaster County.

12 I'm here today to give quick testimony,
13 because I know everybody is tired. It is very
14 important.

15 We are looking at something called rights
16 versus privileges, and according to the U.S.
17 Constitution and the Constitution of the
18 Commonwealth of Pennsylvania, rights are prior to
19 government. A government cannot give you a right.
20 The only thing a government can do is give you a
21 privilege, because anything and everything that a
22 government gives you, it can and will take away.
23 The job and function and purpose and intent of
24 government is to protect the rights of "we the
25 people."

1 And early I heard testimony about
2 constitutional rights. Unfortunately, there is no
3 such thing. The United States Constitution is a
4 document pertaining to law, our great Republic, and
5 there, government law cannot give you a right; the
6 only thing it can do is give you a privilege. So
7 there is no such thing as a constitutional right.

8 And I do not intend to badger anybody, and
9 please do not take anything I say personally; this
10 is just business, and it is the business of "we the
11 people."

12 And a lot of times I hear "the" United
13 States. Part of the problem is, it is not "the"
14 United States. I am not a citizen of the United
15 States; I am a citizen of the sovereign Commonwealth
16 of Pennsylvania. It is "we the people." We are a
17 Federal government. It is "these" United States.
18 If it is "the" United States, it is a national
19 government. We are not a national government; we
20 are made up of commonwealths and States which are
21 sovereign, and the main thing for our State and
22 local Representatives, and mainly the State, and the
23 Senate is to keep the Federal government at bay, to
24 protect us from the unnecessary government.

25 A part of the problem is, government is a

1 necessary evil, and this evil is a servant. It is a
2 fearful servant, and we will use fire as an example.
3 I have a firebox, and a fire is contained in the
4 box. I can warm myself; I can warm my house; I can
5 cook my food, but if I let this servant, this
6 fearful servant, out of the firebox, it will become
7 my fearful master and consume my very flesh and
8 destroy me.

9 CHAIRMAN THOMAS: Okay.

10 MR. JOHNS: This particular right that we
11 are talking about is the right of liberty, the right
12 to travel. Do not surrender this right by default.
13 We are discussing all kinds of different subject
14 matter here, and if we look at it, we shouldn't even
15 be discussing this with the Federal government.
16 They have no authority to come in here and try to
17 control my right to travel. I am a citizen of the
18 Commonwealth of Pennsylvania, not the United States.
19 I am part of "we the people."

20 CHAIRMAN THOMAS: Well, let me thank you for
21 your comments. Let me also thank my Committee
22 members, because they are the ones who believe that
23 we need to get the information out, and hopefully
24 once the information is out, we can then take a
25 proactive position with respect to it.

1 We have one more presenter, and it is almost
2 1 o'clock. Let me thank Mr. Williams, let me thank
3 Deputy Secretary Myers, and let me ask you to please
4 make note that in February we will be in
5 Philadelphia, March we will be in Pittsburgh and
6 Scranton, and in May we will be in Erie,
7 Pennsylvania. We would love to have you two
8 gentlemen back. Thank you.

9 Our last presenter is Mr. Jeremy Meadows,
10 who is the Senior Policy Director for the National
11 Conference of State Legislatures.

12 Mr. Meadows.

13 MR. MEADOWS: I'll quickly run through my
14 testimony and make every effort not to be
15 repetitive.

16 Majority Chairman Thomas, Minority Chairman
17 Steil, and honorable members of the Pennsylvania
18 House Committee on Intergovernmental Affairs, thank
19 you for the invitation to speak with you today about
20 the REAL ID. I am Jeremy Meadows, and I lobby
21 transportation issues on your behalf in Washington,
22 DC, for the National Conference of State
23 Legislatures, NCSL.

24 As you know, NCSL is your association. All
25 50 State Legislatures are members, and we are proud

1 to count all 7,400 elected legislators as well as
2 all the 30,000-plus staff who help you with your
3 work as our members.

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

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

22 In my testimony today, I would like to give
23 you a brief history of REAL ID, share with you some
24 quick impressions of the final regulations, provide
25 a snapshot of NCSL's work on REAL ID and

1 developments in Congress, and note what actions
2 State Legislatures took in 2007 on REAL ID.

3 But make no mistake, REAL ID is not the only
4 driver for improving the security and reliability of
5 State-issued identity credentials. States have been
6 moving to improve systems and ID documents since
7 even before September 11.

8 Indeed, the Department of Homeland Security,
9 DHS, recognizes in the REAL ID final regulations
10 "that many states have made significant progress in
11 improving the integrity of their licenses," page 22,
12 and I look forward to your questions and discussion
13 at the conclusion of my remarks.

14 A brief history of REAL ID. When the 9/11
15 Commission issued its final report, it suggested
16 that "Secure identification should begin in the
17 United States. The federal government should set
18 standards for the issuance of birth certificates and
19 sources of identification, such as driver's
20 licenses. Fraud in identification documents is no
21 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
25 say they are and to check whether they are

1 terrorists," page 390.

2 Congress acted to realize the Commission's
3 recommendation, and in December 2004, President
4 George W. Bush signed into law the National
5 Intelligence Reform Act of 2004. The law, among
6 other things, required the U.S. Secretary of
7 Transportation to establish a negotiated rulemaking
8 process to establish minimum standards for
9 State-issued driver's licenses and identification
10 cards.

11 The group assembled to undertake the
12 negotiated rulemaking process -- including State
13 officials, privacy advocates, information technology
14 experts, Federal Transportation and Homeland
15 Security officials, and others -- met once before
16 the process was stopped by REAL ID. REAL ID
17 mandates that States issue State driver's licenses
18 and identification cards pursuant to Federal minimum
19 standards. If States do not comply, their IDs will
20 not be accepted for Federal purposes, which includes
21 boarding commercial aircraft, entering Federal
22 buildings, entering nuclear power plants, or other
23 purposes designated by the Secretary of DHS.

24 The REAL ID Act of 2005 sailed through
25 Congress and landed on the President's desk without

1 a hearing in either House as part of the "Emergency
2 Supplemental Appropriation for Defense, the Global
3 War on Terror, and Tsunami Relief, 2005." It was
4 signed into law on May 11, 2005. Nearly 3 years
5 later and just 120 days before the statutory
6 implementation date on January 11, 2008, DHS issued
7 the final regulations to guide States'
8 implementation of the Act.

9 The final regulations. The good news is
10 that the final rules seem to offer much more
11 flexibility for States than was originally proposed
12 in the draft regulations, which were issued on March
13 1, 2007, and on which comments were accepted through
14 May 8, 2007. Based on this flexibility, DHS has
15 re-estimated the 10-year costs to States at just
16 under \$4 billion, down \$10 billion from the original
17 \$14 billion estimate. In September 2006, NCSL, the
18 National Governors Association, and the American
19 Association of Motor Vehicle Administrators
20 estimated the 5-year cost of REAL ID to be \$11
21 billion.

22 The final rules still require States to
23 ensure that all applicants are legally in the
24 country and to verify applicants' documents using
25 electronic databases, some of which are still under

1 development. States are required to store copies of
2 these documents and to make their Department of
3 Motor Vehicle, DMV, databases available to all other
4 States. States must conduct background checks on
5 certain DMV staff and secure the facilities where
6 licenses are produced and where information and
7 materials are stored.

8 So then, what flexibility produces a \$10
9 billion cost savings? The new rules are much less
10 prescriptive, allowing States to develop their own
11 security plans and to self-certify compliance with
12 most of the requirements. Gone are the rigid
13 prescriptions for the security features of the
14 identification card itself, replaced by several
15 options from which States can choose. And as States
16 ease into issuing REAL IDs, they will now be able to
17 do so over 6 years, starting with people born after
18 1964.

19 States can request an extension of the May
20 11, 2008, deadline which will be valid through
21 December 31, 2009. If a State takes steps toward
22 complying, a second extension can be requested which
23 will run through May 10, 2011. During these
24 periods, licenses from States with extensions will
25 be accepted by DHS for official Federal purposes

1 such as passing through airport security and
2 entering Federal buildings and nuclear power plants.
3 States must begin issuing REAL IDs on May 11, 2011,
4 and are expected to have enrolled everyone born
5 after 1964 by 2014, completing the entire enrollment
6 process by December 1, 2017.

7 The bad news is that costs remain a major
8 concern and money from Washington is barely a
9 trickle. The Administration and the Department of
10 Homeland Security have never requested funding for
11 State costs in the President's budgets. DHS has
12 authorized States to use State Homeland Security
13 Grant Program funds for REAL ID, but this money is
14 largely already spoken for by other Homeland
15 Security priorities. Congress has appropriated only
16 \$90 million since FY 2006, leaving States to absorb
17 the difference or pass on the cost to residents.
18 NCSL's Executive Director has said that REAL ID
19 represents "federal standards, and they deserve
20 federal dollars."

21 Snapshot of NCSL and congressional activity.
22 At the Nashville Annual Meeting in 2006, State
23 legislators adopted a policy calling on Congress to
24 "fix and fund" the REAL ID by December 31, 2007, or
25 NCSL would call for the repeal of the Act. The

1 "fixes" needed were derived from a September 2006
2 study conducted by NCSL, the National Governors
3 Association, NGA, and the American Association of
4 Motor Vehicle Administrators, AAMVA, to determine
5 the anticipated cost to States to implement REAL ID
6 and the elements States needed to see in the
7 implementing rules to make REAL ID operable.

8 "Fixes" included changed and more lenient timelines,
9 measures that allow States to "manage the lines" at
10 DMVs, as well as connectivity and verification
11 system issues. That September 2006 report estimated
12 State costs -- NCSL's "fund" request -- at over \$11
13 billion for the first 5 years.

14 Before the close of the 109th Congress in
15 December 2006, United States Senators Akaka of
16 Hawaii and Sununu of New Hampshire introduced
17 legislation that repealed REAL ID and returned to
18 the negotiated rulemaking process that preceded it.
19 When the 110th Congress dawned in 2007, Senators
20 Akaka and Sununu were joined by Senators Leahy,
21 Baucus, and Tester to reintroduce their "repeal and
22 replace" legislation.

23 Senator Akaka invited NCSL to testify before
24 his Senate Homeland Security and Governmental
25 Affairs Subcommittee on Oversight of Government

1 Management, the Federal Workforce, and the District
2 of Columbia. Then NCSL President and Texas State
3 Senator Leticia Van de Putte represented NCSL on the
4 March 2007 panel.

5 Congressman Allen of Maine introduced
6 similar legislation in the U.S. House. Senator
7 Snowe of Maine introduced legislation to delay the
8 implementation of the REAL ID and require the
9 Department of Homeland Security "to take into
10 account the concerns and challenges associated with
11 states' compliance" with the implementation of the
12 REAL ID.

13 Some other bills have been introduced
14 suggesting more stringent means for encouraging
15 States to comply with REAL ID. There has also been
16 legislative language that attempted to expand the
17 use of REAL IDs. Thus far, the only action taken in
18 the 110th Congress has been to provide \$50 million
19 for State REAL ID implementation costs.

20 When the long-awaited draft regulations were
21 issued in the spring of 2007, NCSL analyzed the
22 regulations and provided State legislators with
23 short one- to four-page briefs on various aspects of
24 the rules, which were extremely prescriptive and
25 inflexible. NCSL again joined with NGA and AAMVA to

1 submit joint comments before the May 8, 2007,
2 comment deadline. NCSL has been testifying before
3 State legislative committees and providing briefings
4 on REAL ID.

5 NCSL's "fix and fund" policy was renewed at
6 the 2007 annual meeting in Boston with additional
7 language regarding privacy protections and
8 specification that NCSL sought "fixes," at least \$1
9 billion for State start-up costs by December 31,
10 2007, at which point NCSL would call for repeal.

11 In October 2007, DHS began to advise
12 stakeholders that the final regulations were
13 imminent and that they had heard the comments of
14 States. In fact, Richard Barth, DHS Assistant
15 Secretary For Policy Development, briefed NCSL's
16 officers in October, recorded a podcast for the NCSL
17 Web site, and spoke to NCSL's fall forum in Phoenix.

18 At the fall forum in Phoenix, NCSL's "fix
19 and fund" policy was further tweaked so that if the
20 December 31, 2007, deadline was not met, NCSL would
21 call for the repeal of REAL ID and a return to the
22 negotiated rulemaking process.

23 Now that the final rules have been issued,
24 NCSL is analyzing the rules and disseminating
25 briefs. NCSL is also assessing the "fixes" attained

1 in the final regulations and how to best carry
2 forward NCSL's lobbying policy.

3 You can access NCSL's policy positions,
4 Senator Van de Putte's testimony, the
5 NCSL-NGA-AAMVA'S studies and statements, links to
6 the referenced congressional legislation, as well as
7 much more information on REAL ID at
8 www.ncsl.org/realid.

9 A State rebellion? In 2007, 44 States
10 considered approximately 145 bills or resolutions
11 related to REAL ID. Legislation passed in 25.
12 Twenty-one States passed measures that either
13 prohibited State compliance with the Act or urged
14 Congress to amend or repeal it. Maine, Montana, New
15 Hampshire, Oklahoma, South Carolina, and Washington
16 passed laws that strictly prohibit State agencies
17 from complying.

18 Idaho appropriated zero dollars for its
19 implementation in 2008, and legislative chambers in
20 15 States passed resolutions or memorials that urged
21 Congress to amend or repeal REAL ID or indicated the
22 State's intent to not comply. Georgia lawmakers
23 authorized the Governor to delay implementation
24 unless certain conditions are met.

25 Only Indiana and Nevada expressly decided to

1 bring their States closer to compliance, though the
2 Ohio General Assembly directed the Ohio Department
3 of Public Safety to request an extension for REAL ID
4 compliance and Tennessee appropriated funds for REAL
5 ID implementation.

6 So far this year, 11 bills have been
7 introduced in 8 States regarding REAL ID. Several
8 move States toward compliance while others prohibit
9 compliance, notably Pennsylvania Senate Bill 1220
10 introduced by Senator Mike Folmer.

11 DHS has indicated that requesting the first
12 of the two possible deadline extensions does not
13 require States to commit to implementing REAL ID, so
14 many States have requested that first extension.
15 But the States that acted to opt out last year show
16 no signs of reversing their position. How States
17 will react to the final rules and the remaining
18 DHS-estimated price tag of \$4 billion remains to be
19 seen.

20 In closing, NCSL's policy process will
21 continue to determine NCSL's posture on REAL ID, and
22 I encourage you to be involved in that process so
23 that your and Pennsylvania's interests are factored
24 into the debate. NCSL will continue to monitor
25 State reaction and developments on Capitol Hill or

1 within DHS, and we look forward to remaining a
2 resource to you as you consider Pennsylvania's best
3 course of action.

4 Thank you again for the opportunity to
5 appear before you today, and I do look forward to
6 your questions.

7 CHAIRMAN THOMAS: Thank you, Mr. Meadows.
8 Representative Steil.

9 REPRESENTATIVE STEIL: Thank you, Mr.
10 Chairman. Just one question.

11 Do you have any advance information in terms
12 of the issued regulations in States that have
13 previously decided they would not participate? Is
14 there any reconsideration going on now that the
15 final regulations have been issued?

16 MR. MEADOWS: Thank you, Minority Chair
17 Steil.

18 The discussions that we've had, informal as
19 they are, with the States that opted not to comply
20 last year indicate that there is not strong impetus
21 to reconsider. But, of course, everybody is still
22 analyzing the regulations and determining how many
23 fixes have actually made it a more palatable
24 process.

25 REPRESENTATIVE STEIL: And the last question

1 is, NCSL's policy which was adopted last year -- I
2 think it's a 1-year policy -- will it be considered
3 again at the annual meeting this year?

4 MR. MEADOWS: If not sooner.

5 REPRESENTATIVE STEIL: If not sooner.

6 Now, when does it actually expire?

7 MR. MEADOWS: Technically, the resolution
8 adopted in the fall forum last November was expired
9 as of the July annual meeting.

10 REPRESENTATIVE STEIL: Thank you.

11 CHAIRMAN THOMAS: Representative Milne.

12 REPRESENTATIVE MILNE: Thank you, Mr.

13 Chairman.

14 Not to create an adversarial relationship or
15 forum, but, Mr. Williams, if you get a moment -- and
16 I realize you probably can't do it on the spot --
17 just for our intellectual edification up here, I'd
18 be curious if you could give us any feedback,
19 comments, or thoughts about the position of the
20 testimony of the NCSL and also your understanding of
21 where this issue is heading and some of the
22 implications thereof.

23 MR. WILLIAMS: Before talking about the
24 testimony, we at DHS have been working very closely
25 with NCSL and NGA as well as AAMVA over the past

1 year. We've met on several occasions. We've
2 testified together. So I think we've got a very
3 cordial relationship, and I think we exchange
4 information quite often.

5 REPRESENTATIVE MILNE: I see.

6 MR. WILLIAMS: So the testimony that I've
7 seen in here, I would suggest that it seems
8 consistent with what I've seen before from NCSL. I
9 don't perceive it to be having any disparaging
10 remarks about DHS or the implementation of REAL ID.

11 I'm not saying that we agree with every
12 specific line item identified, but I'd say to the
13 extent that I've read and understand the information
14 in there, I think it's consistent with their
15 position. Really, I don't have any disparaging
16 thoughts about the NCSL information, if that's what
17 you're asking.

18 REPRESENTATIVE MILNE: Certainly, and I'm
19 not in a sense judging his testimony as a person or
20 anything of that nature, but certainly I think it
21 would help us if we could get to the heart of where
22 there may be some differences in interpretation or
23 perception between NCSL and DHS. If you have any
24 factual basis or just any different information that
25 you may be interpreting differently in how NCSL is

1 seeing this issue, I just think it would kind of
2 help us sort out the Federal and State perspective
3 on this.

4 MR. WILLIAMS: I think there's really two
5 key things, and I think we're consistent in our
6 thoughts on these two key things. The term that
7 NCSL uses is "fix and fund," funding for -- of
8 course, I have to put my DHS hat on in regard to
9 funding, and of course DHS cannot necessarily
10 solicit funds from Congress. But funding, I think,
11 would be a--- If a State chose to ask for
12 additional funding through their various
13 Representatives, there certainly wouldn't be any
14 issues with that. I think it would be a good thing.

15 REPRESENTATIVE MILNE: Okay.

16 MR. WILLIAMS: On the "fixed" part, I'm not
17 sure if I'd say we've fixed REAL ID exclusively
18 based upon NCSL comments. But I think when you take
19 a look at the total 21,000 comments offered by NCSL,
20 NGA, and the States and a number of other
21 organizations, I think that we've fixed REAL ID to
22 make it a more implementable document for each of
23 the States.

24 REPRESENTATIVE MILNE: Okay.

25 MR. WILLIAMS: So I think on the "fixed"

1 part, I wouldn't use that term but I would say that
2 I think NCSL thinks that we've gone a long way in
3 fixing it per what they suggest should be
4 incorporated.

5 On the funding part, again, would additional
6 money be nice? I think it would be good. We've got
7 the \$40 million originally appropriated and the
8 additional \$50 million that we will certainly make
9 available as a part of grants to States as well.

10 And then I think the other thing that NCSL
11 -- and I don't know if they explicitly brought it up
12 this time -- they're also concerned about the
13 verification systems, and we're certainly working
14 hard to try to have those systems up and running
15 somewhere near the summer/fall 2009 time frame.

16 So I think we've got agreements in regard to
17 some of the things that could have been done early
18 on better with REAL ID, and I think we at DHS have
19 certainly attempted to take a more aggressive
20 posture in making REAL ID more implementable and
21 then trying to utilize the funds as best we could to
22 ensure that it maximized the State's benefits.

23 REPRESENTATIVE MILNE: Do you have any
24 reaction to the observations, Mr. Meadows, that DHS
25 itself has never directly asked for appropriations

1 in this regard?

2 And maybe a secondary question from that
3 that he'll understand your answer, is that the
4 official position that we should work with? That
5 DHS's condition is, if they extend more Federal
6 funds that become available, it is incumbent upon
7 the States to go back to their Federal
8 Representatives, that DHS itself is not going to try
9 to advocate for that additional funding.

10 MR. WILLIAMS: I think if you take a look,
11 say, last year, for example, the immigration bill,
12 in that immigration bill we did have \$1.2 billion
13 for REAL ID implementation. Now, the immigration
14 bill, of course, did not pass. Therefore, that \$1.2
15 billion was, of course, not available.

16 REPRESENTATIVE MILNE: Right.

17 MR. WILLIAMS: So if you take a look at that
18 bill alone, that bill for the \$1.2 billion, I think
19 it shows that DHS did lean forward to try to come up
20 with additional funds. Again, that's just one
21 example that I can openly speak about, only because
22 that bill is a part of public record.

23 REPRESENTATIVE MILNE: I can appreciate
24 that.

25 Just going forward, is that the official

1 position of the DHS, that it is incumbent upon the
2 States to go back to their elected Representatives
3 to request any additional appropriations? DHS
4 itself is not going to get involved in that part of
5 this program?

6 MR. WILLIAMS: I'd say the official position
7 for States, it would be up to the State to decide
8 what they think is best for the States. I don't
9 believe that we at DHS would officially state what a
10 State should do, what actions States should take.

11 REPRESENTATIVE MILNE: I understand that.
12 But DHS itself at some point in the future is going
13 to directly ask Congress, make an appropriation
14 request, that this program needs additional funding
15 for it to realistically be on --

16 MR. WILLIAMS: Again, I think our position
17 has been from an official perspective that DHS
18 cannot solicit funds from Congress.

19 REPRESENTATIVE MILNE: I know it did not,
20 but will it? Is there any type of plan, thoughts,
21 in that direction?

22 MR. WILLIAMS: I'll tell you, you're
23 pressing me on this one. A clear example is---

24 REPRESENTATIVE MILNE: And I don't mean to.
25 I'm not trying to harass you in any way, but this is

1 really an important question. It makes a great deal
2 of difference in terms of the strategy the States
3 can pursue.

4 MR. WILLIAMS: Again, if you look at past
5 actions that DHS has taken, and I refer back to the
6 immigration bill we had for \$1.2 billion, I think
7 that shows DHS's clear intention. Whether or not
8 you're asking for the future, will DHS attempt to
9 align funds as it did in the immigration bill last
10 summer, that's something that I clearly cannot
11 answer. I can only indicate that if you look at
12 your past as an example of what we might choose to
13 do or care to do in the future, the example of the
14 past is that we did ask for \$1.2 billion for REAL ID
15 implementation.

16 REPRESENTATIVE MILNE: Thank you. I'd
17 appreciate if when you return to Washington,
18 Secretary Chertoff could be asked in effect this
19 question and we can get some kind of correspondence
20 from him to this Committee about how he envisions
21 this appropriations strategy or process moving in
22 the future. I think that certainly would be very
23 helpful.

24 MR. WILLIAMS: Okay. Can do.

25 REPRESENTATIVE MILNE: Thank you.

1 CHAIRMAN THOMAS: Thank you, Representative.

2 Again, let me thank our guests. You made
3 this possible. And let me just kind of close with
4 sharing a few things with you.

5 One, this is not the end, only the
6 beginning. We are going to do all that we can to
7 make sure that Pennsylvanians and government
8 officials are aware of REAL ID, its impact, and what
9 we can do to move forward as your Representatives or
10 on the Executive Committee of NCSL.

11 And Jeremy Meadows works extremely hard. At
12 some point, we would like to see maybe a memorandum
13 of understanding between NCSL and Homeland Security
14 which speaks to some minimum standards that we
15 believe that the Federal government must respect
16 about the residents of Pennsylvania and about
17 residents throughout this great United States.

18 Thirdly, we will be in Philadelphia,
19 Pittsburgh, Scranton, and Erie. If you have any
20 friends or know of any people, please let us know.

21 Next, we have a very good analysis of REAL
22 ID as articulated through the regulations in your
23 package, and I want to personally thank Allison
24 Acevedo, Esq., from my office for doing that
25 analysis.

1 (Applause.)

2 CHAIRMAN THOMAS: Thank you.

3 And last but not least, and I'm sure the
4 minority Chairman will support this, cooperation,
5 communication, collaboration, and compassion need to
6 be the hallmark of compliance and/or noncompliance.
7 Pennsylvania has not gone on record as compliant;
8 they requested an extension. That first extension
9 was an extension of grace that did not require an
10 acknowledgment of compliance. So please don't leave
11 this hearing saying that Pennsylvania has signed on.
12 Pennsylvania has not signed on to the REAL ID Act,
13 and at some point we will be taking a position,
14 hopefully collectively, but we will be taking a
15 position.

16 The Legislature cannot start REAL ID
17 implementation. That is the Executive Branch that
18 has that responsibility. The Legislature can set
19 conditions under which implementation should occur,
20 and the Legislature can decide not to comply. And
21 we have made it very clear that if that's the
22 direction that Pennsylvania wants to go, then we
23 have added responsibility to make sure that
24 Pennsylvanians are aware of what that means.

25 There's nothing in the Act that says you

1 have to do A, B, C, but there is something in the
2 Act which says that if you decide not to comply, you
3 have an added responsibility to let Pennsylvanians
4 know the consequences of non-compliance. So that
5 door is open.

6 Mr. Chairman, would you like to say a few
7 things in closing?

8 REPRESENTATIVE STEIL: Thank you, Mr.
9 Chairman. I think you summed it up very well.

10 I just wanted to say that for all of us,
11 this is a learning process also. In order to be a
12 legislator to represent the people whom we
13 represent, we must know both sides of the issue and
14 we must hear from all of the people, and that's what
15 this process is. We will not be making decisions on
16 this until that is complete so that everyone has the
17 opportunity to contribute their comments, whether
18 they're for or against. But then we will have to
19 make a decision as to the direction we believe the
20 State should go, and that will certainly be
21 occurring, I'm very hopeful, by late summer or early
22 fall.

23 Thank you.

24 CHAIRMAN THOMAS: Thank you.

25 Again, let me thank President Thompson of

1 Harrisburg City Council for allowing us to use this
2 room, and let me thank the Honorable Mayor Reed for
3 allowing us to hold this hearing in this great city
4 of Harrisburg.

5 Thank you to everyone here. God bless you.

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7 (The hearing concluded at 1:05 p.m.)

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

Jean M. Davis, Reporter
Notary Public