CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

October 15, 2009

S. 1261
Providing for Additional Security in States' Identification Act of 2009

*As ordered reported by the Senate Committee on Homeland Security
and Governmental Affairs on July 29, 2009*

SUMMARY

S. 1261 would repeal title II of the REAL ID Act of 2005 (Division B of Public Law 109-13) and place new requirements on states to improve the security of driver's licenses and identification cards. The legislation would authorize the appropriation of whatever sums are necessary for fiscal years 2010 through 2015 for the Department of Homeland Security (DHS) to make grants to states to help them comply with the bill's requirements. The bill also would authorize the appropriation of $150 million over the 2011-2013 period for DHS to make grants to states to ensure the accuracy of birth records. In addition, S. 1261 would direct DHS to establish a demonstration project relating to the security and integrity of driver's licenses.

S. 1261 also would waive the fees that states currently pay to access certain DHS and Social Security Administration (SSA) databases to check the eligibility of applicants for driver's licenses and identification cards. The bill would establish new federal crimes relating to the misuse of data on driver's licenses and identification cards.

CBO estimates that implementing S. 1261 would increase discretionary costs by $123 million over the 2010-2014 period, assuming appropriation of the necessary amounts. We estimate that enacting the bill would increase direct spending by $4 million over both the 2010-2014 and 2010-2019 periods. Enacting S. 1261 would have no significant effect on revenues.

S. 1261 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) because it would require states to have security and privacy policies for personally identifiable information that they collect. Many states currently have similar policies. CBO estimates that the cost of creating or updating such policies to comply with the new requirements would be small and well below the threshold established in UMRA for intergovernmental mandates ($69 million in 2009, adjusted annually for inflation).

S. 1261 would impose a private-sector mandate as defined in UMRA by prohibiting persons from scanning and storing certain information contained on a driver's license or identification card. CBO estimates that the cost of complying with the mandate would fall below the annual threshold for private-sector mandates ($139 million in 2009, adjusted annually for inflation).

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of S. 1261 is shown in the following table. The costs of this legislation fall within budget function 750 (administration of justice).

	By Fiscal Year, in Millions of Dollars					
	2010	2011	2012	2013	2014	2010-2014
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
DHS Grants to States for Birth Records						
Authorization Level	0	150	0	0	0	150
Estimated Outlays	0	6	23	39	30	98
DHS Demonstration Project						
Estimated Authorization Level	25	0	0	0	0	25
Estimated Outlays	15	5	5	0	0	25
Total Changes						
Estimated Authorization Level	25	150	0	0	0	175
Estimated Outlays	15	11	28	39	30	123
CHANGES IN DIRECT SPENDING						
Waiver of DHS Fees						
Estimated Authorization Level	2	2	0	0	0	4
Estimated Outlays	2	2	0	0	0	4

Note: DHS = Department of Homeland Security.

BASIS OF ESTIMATE

For this estimate, CBO assumes that S. 1261 will be enacted near the beginning of fiscal year 2010. We estimate that implementing the bill would increase discretionary spending by $123 million over the 2010-2014 period, assuming appropriation of the necessary amounts. We estimate that enacting the bill would increase direct spending by $4 million

over both the 2010-2014 and 2010-2019 periods. Enacting S. 1261 would have no significant effect on revenues.

Spending Subject to Appropriation

DHS Grants for Birth Records. S. 1261 would authorize the appropriation of $150 million over the 2011-2013 period for DHS to make grants to states to ensure the accuracy of birth records. CBO assumes that $150 million will be appropriated by the beginning of fiscal year 2011 and that outlays will follow the historical spending patterns for similar activities.

DHS Demonstration Project. The bill would authorize the appropriation of whatever sums are necessary for fiscal years 2010 through 2012 for a demonstration project to evaluate an electronic system for verifying that applicants for driver's licenses or identification cards do not already possess such documents. The Congress appropriated $50 million in fiscal year 2009 for DHS to begin this project. Based on information from DHS, CBO estimates that the department would need $25 million in 2010 to complete the demonstration project and that these funds would be spent by the end of fiscal year 2012.

Grants to Assist States in Complying with Bill's Requirements. Title II of the Real ID Act of 2005 (Division B of Public Law 109-13, the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005) placed requirements on states to improve the security of driver's licenses and identification cards by May of 2008. Since enactment, nearly half the states have passed laws or resolutions opposing the act, and DHS has delayed the deadline. (Currently, states must achieve partial compliance with the provisions of the REAL ID Act by December 31, 2009, and full compliance by May of 2011.) CBO has no basis for estimating the number of states that will comply with the REAL ID Act, so we cannot compare the compliance costs of S. 1261 with those under current law.

The REAL ID Act authorized the appropriation of whatever sums are necessary for fiscal years 2005 through 2009 for DHS to make grants to states to assist them in complying with the act's provisions. Over the 2006-2009 period, the Congress appropriated about $140 million for this purpose. However, the Administration's estimate of the total costs to states to comply with the act exceeded $1 billion. As noted above, it is possible that many states will not comply with the act's provisions, so federal costs to help states implement the REAL ID Act are uncertain.

S. 1261 would authorize the appropriation of whatever sums are necessary over the 2010-2015 period for DHS to make grants to states to help them comply with the bill's provisions. The legislation would repeal title II of the REAL ID Act of 2005, but the bill contains new provisions that would require states to improve the security of driver's licenses and identification cards. Compared to current law, S. 1261 would provide more

flexibility to states in adopting methods to verify identification documents provided by driver's license applicants.

If all states choose to comply with the provisions of the REAL ID Act, CBO expects that the compliance costs of S. 1261 would be less expensive than those under current law because of the greater flexibility provided by the bill. Because we do not know how many states will eventually comply with the REAL ID Act, however, we have no basis for estimating the costs or savings of S. 1261 relative to current law.

SSA. Under current law, states reimburse the Social Security Administration (SSA) for state motor-vehicle agencies' use of the Social Security Online Verification (SSOLV) system. In recent years, states have conducted roughly 20 million SSOLV queries annually. At an average cost of around 1 cent per transaction, states have paid SSA approximately $200,000 to $250,000 per year. S. 1261 would waive those fees, and CBO estimates that SSA's fee collections would decrease, thus increasing net spending subject to appropriation by less than $500,000 annually over the 2010-2014 period.

Direct Spending and Revenues

S. 1261 would waive the fees that states currently pay to access certain DHS databases to check the eligibility of applicants for driver's licenses and identification cards. CBO estimates that this provision would decrease fee collections—and thus increase direct spending—by about $2 million annually over the 2010-2011 period.

DHS Fees. About half of the states use DHS's Systematic Alien Verification for Entitlements (SAVE) program for checking the immigration status of applicants for driver's licenses and identification cards. The department collected about $1 million in fees in 2009 from those states. In 2010 and subsequent years, however, we expect greater collections as more jurisdictions use the SAVE program. Based on information from the department, CBO estimates that enacting S. 1261 would decrease fee collections by roughly $2 million annually over the 2010-2011 period.

DHS periodically reviews its fees for providing certain services and sets fees sufficient to ensure the recovery of the full costs of providing all such services, including the costs of services provided without charge to certain applicants. DHS is now completing a fee review; CBO assumes that this fee adjustment would be unaffected by S. 1261 and that DHS would raise fees as necessary sometime in 2011 to offset the additional costs resulting from enactment of S. 1261. In that case, the bill would have no significant net effect on DHS spending after fiscal year 2011.

Other Provisions. In addition, S. 1261 could increase collections of criminal fines for violations of the bill's provisions relating to the misuse of data on driver's licenses and identification cards. Criminal fines are recorded as revenues, deposited in the Crime

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Victims Fund, and subsequently spent without further appropriation. CBO estimates that any increases in revenues and direct spending would not be significant in any year.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

S. 1261 contains intergovernmental mandates as defined in UMRA. The bill would require states to issue public notices about their security and privacy policies that include information about how personally identifiable information is used, stored, accessed, and shared. The bill also would require states to have a process that would allow individuals to access, amend, and correct their information. Information from groups representing state governments indicates that most states currently have such policies and procedures, though some may need to be revised. Therefore, CBO estimates that the cost to states of those requirements would be well below the threshold established in UMRA for intergovernmental mandates ($69 million in 2009, adjusted annually for inflation).

Other provisions of the bill would benefit state, local, and tribal governments. The bill would repeal the requirements of the REAL ID Act and replace them with more flexible requirements for issuing compliant driver's licenses and identification cards. The bill also would authorize appropriations that could be used to pay for those requirements, and it would prohibit the federal government from charging fees to states to access the SAVE and SSOLV data systems.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

S. 1261 would impose a private-sector mandate as defined in UMRA by prohibiting persons from scanning the information contained in the machine-readable component of a driver's license or identification card and storing, reselling, sharing, or trading that information. The bill also would prohibit tracking the use of a driver's license or identification card. According to the FTC and industry sources, few private entities currently scan driver's licenses, and for those that do, the costs of changing that practice would be minimal. Therefore, CBO expects that the cost of complying with the mandate would fall below the annual threshold established in UMRA for private-sector mandates ($139 million in 2009, adjusted annually for inflation).

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