



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

February 7, 2005

H.R. 418 **REAL ID Act of 2005**

As introduced on January 26, 2005

SUMMARY

H.R. 418 would authorize the appropriation of such sums as necessary for fiscal years 2005 through 2009 for the Department of Homeland Security (DHS) to make grants to states to cover the costs of improving the security of driver's licenses as required by the bill. The legislation also would make changes to current immigration law that aim to prevent the entry of suspected terrorists into the United States. CBO estimates that implementing H.R. 418 would cost about \$100 million over the 2005-2010 period, assuming appropriation of the necessary amounts. Enacting the bill would not affect direct spending or receipts.

H.R. 418 contains several intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that those mandates would impose incremental costs on state, local, and some tribal governments above what they will likely spend under current law. CBO estimates that costs to those governments will total more than \$100 million over the 2005-2009 period under current law. By comparison, we estimate that such costs would total about \$120 million (over the 2006-2010 period) under H.R. 418. As a result, the additional costs that would be imposed by H.R. 418 would not exceed the annual threshold established in UMRA (\$62 million in 2005, adjusted annually for inflation). The bill would authorize appropriations for grants to states to cover their costs.

This bill contains no new private-sector mandates as defined in UMRA.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 418 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					
	2005	2006	2007	2008	2009	2010
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	0	40	25	25	5	5
Estimated Outlays	0	40	25	25	5	5

BASIS OF ESTIMATE

The Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458) authorized the appropriation of such sums as necessary for fiscal years 2005 through 2009 for the Department of Transportation to make grants to states to cover the costs of improving the security of driver’s licenses as required by that act. H.R. 418 would repeal those provisions of Public Law 108-458, shift the responsibility of administering this program from the Department of Transportation to DHS, and require state and local governments to comply with more stringent provisions than under current law. H.R. 418 would authorize the appropriation of such sums as necessary for fiscal years 2005 through 2009 for DHS to make grants to states to cover the costs of complying with the bill’s provisions.

Requirements for Driver’s Licenses and Identification Cards

Public Law 108-458 created federal standards for issuing driver’s licenses and identification cards and also imposed intergovernmental mandates on state, local, and some tribal governments. That law, however, gave broad authority to the Department of Transportation to negotiate the specific requirements of those standards. Based on information from federal, state, and local agencies, CBO assumes that the process for a negotiated rulemaking will give state and local governments the opportunity to help shape federal standards; those standards are thus likely to be less costly to implement than the requirements of H.R. 418.

In contrast, the provisions of H.R. 418 are more specific and likely would go beyond what will be required under current law. Specifically, state-licensing agencies would be required to verify the documents presented as proof of identification, residency, and citizenship status. Many of the agencies that issue those documents charge a fee for verification services. Licensing agencies also would have to upgrade computer systems to verify documents and to digitize and store electronic copies of all source documents. Finally, some states that do not currently require background checks for certain employees would face additional costs to complete those checks.

CBO estimates that these additional requirements in H.R. 418 would impose costs above those incurred under current law. Based on information from state representatives, CBO estimates that DHS would spend about \$20 million over the five-year period to reimburse states for the cost of complying with the legislation, subject to appropriation of the necessary amounts.

Driver License Agreement

In addition, H.R. 418 would require states to participate in the Driver License Agreement, an interstate database to share driver information that was not included in Public Law 108-458. Based on information from the Government Accountability Office and the American Association of Motor Vehicle Administrators, CBO estimates that it would cost \$80 million over three years to reimburse states for the cost to establish and maintain the database.

Barriers at U.S.-Mexico Border

The Illegal Immigration Reform and Immigration Responsibility Act provided for the construction of a series of roads and fences along the U.S.-Mexico border near San Diego to deter entry of illegal immigrants. All but about three miles of this barrier have been completed. Since February 2004, completion of the barrier has been delayed because of environmental conflicts with the Coastal Zone Management Act (CZMA). H.R. 418 would permit DHS to waive this act and any other laws as necessary to complete construction of the barrier.

DHS estimates that it has spent about \$30 million thus far on the barrier and that it will cost an additional \$32 million to complete the project. The agency has less than \$2 million in unspent funds, which are currently being used to identify acceptable alternative plans to complete the barrier. In addition, the CZMA already enables the President under certain circumstances to waive laws as necessary to complete projects deemed of paramount interest to the United States.

Other Provisions

Finally, CBO estimates that the bill's provisions, designed to prevent the entry of suspected terrorists into the United States, would have no significant costs because similar screening procedures already exist.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

Procedures for processing and issuing driver's licenses and identification cards under current law are in the process of changing due to federal legislation enacted in December 2004. The Intelligence Reform and Terrorism Prevention Act of 2004 created federal standards for states to follow in issuing driver's licenses and identification cards. CBO considers these standards to be mandates because any driver's licenses or identification cards issued after that time would be invalid for federal identification purposes unless they met those requirements. CBO estimates that those enacted mandates will impose costs on state, local, and some tribal governments over the 2005-2009 period totaling more than \$100 million and will exceed the annual threshold established in UMRA (\$62 million in 2005, adjusted annually for inflation) in at least one of those years. Public Law 108-458 also authorized appropriations for grants to states to cover such costs.

New Mandates with Significant Additional Costs

H.R. 418 would repeal Public Law 108-458 and replace it with several new and more stringent intergovernmental mandates for processing and issuing driver's licenses and identification cards. Based on information from federal agency and state representatives, CBO estimates that those mandates would impose incremental costs on state, local, and some tribal governments above what they will likely spend under current law. CBO estimates that costs to those governments will total more than \$100 million over the 2005-2009 period under current law. By comparison, we estimate that such costs would total about \$120 million (over the 2006-2010 period) under H.R. 418. As a result, the additional costs that would be imposed by H.R. 418 would not exceed the annual threshold established in UMRA (\$62 million in 2005, adjusted annually for inflation). The bill would authorize appropriations for grants to states to cover their costs.

Public Law 108-458 created federal standards for issuing driver's licenses and identification cards and also imposed intergovernmental mandates on state, local, and some tribal governments. That law, however, gave broad authority to the Secretary of the Department of Transportation to negotiate the specific requirements of those standards. Based on information from state and local government representatives, CBO assumes that the process for a negotiated rulemaking will give state and local governments the opportunity to help shape federal standards; those standards are thus likely to be less costly to implement than the requirements of this bill.

In contrast, the provisions of H.R. 418 are more specific and likely would go beyond what will be required under current law. Specifically, state-licensing agencies would be required to verify with the issuing agency (many that charge a fee for such verifications) each

document presented as proof of identification, residency, and citizenship status. Those state agencies also would have to upgrade computer systems to verify documents and to digitize and store electronic copies of all source documents. Finally, certain states that do not currently require background checks for certain employees would face additional costs to complete those checks.

CBO estimates that these additional requirements in H.R. 418 would impose costs above those that will be imposed by the mandates in current law. The incremental additional costs, however, are unlikely, by themselves, to exceed the annual threshold established in UMRA in any one year.

Mandates with no Significant Additional Costs

The bill also contains several other intergovernmental mandates. CBO expects, however, that these requirements would probably not impose significant additional costs on state, local, or tribal governments. Specifically, the bill would:

- Authorize the Secretary of the Department of Homeland Security to waive any laws necessary to complete construction of a physical barrier between the United States and Mexico near San Diego, California, and prohibit any court from having jurisdiction to hear claims or ordering relief for damage resulting from the waiver of such laws. This provision would preempt state authority.
- Require states to implement training classes for employees to identify fraudulent documents; and require documents and supplies to be securely stored. According to state officials, it is likely that states currently comply with those requirements.
- Prohibit states from accepting any foreign document, other than an official passport, for identification purposes for the issuance of driver's licenses. Currently, at least 10 states accept identification cards issued by foreign governments, such as the "matricula consular" issued by Mexico. This prohibition would preempt state authority.
- Require states to resolve any discrepancies that arise from verifying Social Security numbers, though the language is unclear as to what specific actions would be required. Currently, at least two states prohibit their employees from enforcing immigration laws, and many of those discrepancies may be related to immigration. This requirement might preempt those state laws.

- Require that driver’s licenses and identification cards be valid for no more than eight years. Currently two states, Arizona and Colorado, are valid for longer than eight years. These provisions would preempt those state laws and impose two to four years of additional staff costs to reissue the licenses sooner than expected. Those costs would not be incurred until eight years after the bill is enacted. In addition, four other states—Montana, New Mexico, Oregon, and Wisconsin—issue driver’s licenses and identification cards that are valid for eight years. The bill authorizes the Secretary to further limit the validity of licenses and these states, as well as others, may be affected if the Secretary exercises such authority. This provision would preempt state authority.
- Authorize the Secretary to prescribe the design formats of driver’s licenses and identification cards to protect national security and allow for clear visual differentiation between levels and categories of documents. Such design has traditionally been determined by states and under current law; any standards developed under the provisions of Public Law 108-458 may not require a single design. This provision would preempt state authority.

Other Impacts on State and Local Governments

In addition to the other requirements of the bill, states would be required to participate in the Driver License Agreement, an interstate compact to share driver information. Any costs to state governments would be incurred voluntarily as a condition of receiving federal assistance.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

This bill contains no new private-sector mandates as defined in UMRA.

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