Stewart should step up to halt wasteful, intrusive REAL ID

By Jim Harper

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Six years ago, the Utah Legislature flatly rejected participation in the national ID program established by the federal REAL ID Act. But Department of Homeland Security bureaucrats and the Utah Department of Public Safety have moved forward anyway.

In the next few weeks, Rep. Chris Stewart, R-Utah, will have a major role in deciding whether or not DHS proceeds with its program, which would ultimately put Utah drivers' data into a nationwide data-sharing system. Stewart, a member of the DHS Appropriations Subcommittee in the House of Representatives, is directly involved in the decision whether or not to fund REAL ID implementation.

The U.S. Congress passed the REAL ID Act in 2005, with little debate and no hearings. The law repealed reforms passed in response to the 9/11 Commission, replacing them with a national ID mandate that concentrates power in federal hands. No longer would driver licensing be a state prerogative. REAL ID seeks to coerce state compliance by threatening non-compliant states with refusal of their drivers' licenses at TSA checkpoints.

The REAL ID Act doesn't just involve requiring proof of legal presence to get a license, something Utah adopted on its own in 2008. The law requires states to share their drivers' data and documents with every other motor vehicle agency through a nationwide network of databases. DHS denies this, and it has pared back the "material compliance checklist" by which it assesses state compliance in order to hide this requirement. But when full enforcement kicks in, REAL ID will be a federally run national ID system, making Americans' data available to any DMV, and soon enough to DHS bureaucrats, from Maine to Alaska.

That's part of the reason that Utah's Legislature urged Congress to repeal REAL ID in March 2007, and expressed opposition to the creation of a national ID card in 2009. (Utah's Libertas Institute has done detailed research on REAL ID developments in the state.) In March 2010, the Utah Legislature prohibited implementation of REAL ID by the Driver License Division, excepting licensing policies already mandated by the Utah Code.

But the Utah Department of Public Safety has worked with DHS on the national ID law. The DPS certified its compliance with REAL ID in January 2013, saying that the state "intends to remain in compliance with these regulations." This is how Utah, which has rejected the national ID law, is in compliance with the national ID law.

As a member of the powerful House appropriations subcommittee that controls DHS's budget, Stewart is well positioned to intervene in the process by which state and federal bureaucrats undermine the decisions of Utah elected officials. Programs like REAL ID rely on federal funds, and appropriators like Stewart are positioned to cut off the flow of funds. Doing so would protect Utah's Legislature and the privacy of Utah drivers and ID card holders.

Since the 2005 passage of REAL ID, appropriators have annually passed funding for the program with little to no debate, much less oversight. The Cato Institute has found that, on average, Congress appropriated and DHS spent about $50 million per year on REAL ID from 2008 to 2011. Starting in 2011, REAL ID was folded into a $1 billion-per-year "State Homeland Security Grant Program" that reduced oversight of federal spending on the national ID program even further.

The security issues matter, of course. No one has ever explained how the national ID system embodied by REAL ID would provide security commensurate with its dollar and privacy costs. The likelihood is that REAL ID would create greater security risks, opening Utahns to identity fraud and hacking risks. Americans should not trade privacy and liberty for the false security of a vast government database. And yet federal money flows to DHS for this program.

Stewart and his colleagues on the House Appropriations Committee can take a stand against shadowy spending for a dangerous national ID system by voting against further funding for REAL ID. This would restore much needed transparency to a notoriously opaque process, halt a threat to Utahans' privacy and liberties, and restore power to the Utah Legislature, which has already spoken, clearly in the negative, on the national ID issue.

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