

March 18, 2005

United States Senate
Washington, D.C. 20510

RE: Cuban American National Foundation (CANF), League of Latin American Citizens (LULAC), Mexican American Legal Defense and Educational Fund (MALDEF), National Association of Latino Elected and Appointed Officials (NALEO), and National Council of La Raza (NCLR), and the Puerto Rican Legal Defense and Educational Fund (PRLDEF), Urge Senators to Oppose the *REAL ID Act*

Dear Senator:

The major national Latino organizations signed below write to express our strong opposition to the *REAL ID Act*, H.R. 418, introduced by Representative Sensenbrenner, passed by the House of Representatives February 10th, and sent to the Senate on February 14th. We understand that the House has attached the *REAL ID Act* to the Iraq, Afghanistan and Tsunami relief appropriations bill.

The Latino community cares deeply about national security as well as immigration policy. As such, we believe that the issues at stake must be discussed through the Senatorial debate processes through appropriate committees, primarily the Homeland Security and Judiciary Committees, rather than being routed through the Appropriations Committee. If the *REAL ID Act* remains attached to the Iraq, Afghanistan and Tsunami relief appropriations bill, these goals would not be met. In addition, if passed, the *REAL ID Act* would have a negative impact on existing laws and many American communities. In particular, we believe that this bill will adversely impact hardworking Latino immigrants and their families, and take the debate further away from the real issue that needs to be addressed—comprehensive immigration reform.

Specifically, the *REAL ID Act* would displace provisions of the *Intelligence Reform and Terrorism Prevention Act of 2004* (Public Law 108-58)(*Intelligence Reform Act*), which you enacted into law on December 12, 2004. The *REAL ID Act* would have bail bondspersons conduct immigration enforcement. It would also impose federal limits on immigrants' access to drivers' licenses and other state identification documents. It would make more difficult to prove the right to asylum. Furthermore, it would continue militarization of the border at the expense of Latino migrants' lives and existing environmental laws.

As such, we look forward to working with you to create important, meaningful, and lasting changes to our current immigration system which will benefit everyone: American families, workers, and businesses. As leading economists have demonstrated, Latino immigrants are making an essential contribution to the U.S. economy, and their work will continue to be necessary due to the aging of the native U.S. population. (See, e.g., National Research Council, *The New Americans: Economic, Demographic and Fiscal Effects of Immigration* (1997); Raúl Hinojosa Ojeda, University of California, Los Angeles, *Comprehensive Migration Policy Reform in North America: The Key to Sustainable and Equitable Economic Integration* 6 (2001); Pia M. Orrenius, Federal Reserve Bank of Dallas "U.S. Immigration and Economic Growth," 6 *Southwest Economy* (November/December 2003).) Unfortunately, bills such as the *REAL ID Act* would undercut essential immigration policy reform efforts. We are confident that you will continue to demonstrate strong leadership on this issue of great importance, in order for America to move forward on comprehensive immigration reform.

Specifically, we ask you to oppose the *REAL ID Act's* imposing additional federal immigrant drivers' license and other identification document requirements on the States. Such a provision is not needed because Congress already passed drivers' license legislation in the *Intelligence Reform Act*. The law requires the federal government to set federal standards for driver's licenses including standards for documentation required as proof of identity of an applicant; standards for the processing of applications to prevent fraud; standards for information to be included on driver's licenses; and security standards to ensure that licenses are resistant to tampering, alteration, or counterfeiting. These standards are to be set by the Department of Transportation through a "negotiated rulemaking" process that includes relevant stakeholders such as state elected officials and state motor vehicle departments. This process allows the States to maintain their ability to set eligibility standards, while also recognizing the need to prevent against identity theft and fraud.

Most importantly, a lawful presence requirement will not make us safer. Indeed, contrary to what its supporters argue, such a requirement would not have prevented the September 11, 2001 attacks, because the 9/11 hijackers all possessed other valid documents, like passports from their home countries. We strongly believe that, by focusing on drivers' license policy as a tool in America's struggle against terror, this bill is misleading the American public as to what will advance our security interests. We believe this to be a costly, harmful mistake.

Access to drivers' licenses and other state identification documents is a priority issue for the Latino community, and the ability to prove one's identity and lawfully operate a motor vehicle is crucial for all Americans. Public safety improves when all drivers are properly licensed and insured, and national security improves when individuals have valid identification documents.

The asylum-related provisions of the *REAL ID Act* will prohibit many individuals fleeing persecution from obtaining safe haven in the U.S. We urge you to oppose REAL ID because it would prevent legitimate asylum-seekers from obtaining immigration relief. The asylum section purports to prevent terrorists from getting asylum, but it is not necessary as terrorists are already barred from receiving asylum under various provisions of the Immigration and Nationality Act (INA) as reformed by the Illegal Immigrant Reform and Immigrant Responsibility Act of 1996. *REAL ID's* proposed reforms would deny asylum if applicants could not prove their persecutor's central motive for harming them, or had any inconsistencies between any statements, including those made during arrival while still traumatized after fleeing persecution, and their testimony before an immigration judge. In addition, "corroborating evidence" would be required in asylum cases appealed to the federal judiciary, when in fact dictatorships are not known to provide such forms of evidence. These provisions of the *REAL ID Act* would do nothing to make us safer, and do great damage to our nation's proud heritage as a place of refuge for those fleeing persecution. The 9/11 Commissioners, 9/11 families, security experts, religious organizations, and many others have joined Latino organizations in questioning the effectiveness of these provisions.

Moreover, the *REAL ID Act* would have bail bondspersons act as immigration law enforcers for immigrants in removal proceedings. Rather than utilizing the current bond system, as codified at §236(a) of the Immigration and Nationality Act, §§106-108 the *REAL ID Act* would devolve decisions about immigration enforcement priorities from the Department of Homeland Security (DHS) to bail bondspersons. It would also devolve judicial authority by giving bail bondspersons the following power: "At any time, *before a breach of the bond conditions, if in the opinion of the surety or bonding agent*, the principal becomes a flight risk, the principal may be surrendered to the Department of Homeland Security for removal." *REAL ID Act* §106 (a)(7)(A)(*Surrender*)(emphasis added). This would put immigration enforcement decisions into the hands of untrained bail bondspersons who are likely to be unscrupulous, as they would have no liability under the *REAL ID Act* for the \$10,000 bonds they could issue to persons in immigration proceedings. To be clear, many in immigration proceedings have valid defenses and the legal right to remain in the United States. Our communities deserve so much better.

The *REAL ID Act* also calls for suspending any federal laws necessary to construct further military-type fences across the nation's borders. This proposal is inhumane, inefficient, and will result in increased suffering, violence, and death along the border. The existing Triple Fence cost approximately \$3 million per mile to construct. Numerous reports illustrate that this expenditure did not result in a reduction of undocumented migration, it has simply shifted migrants out of the San Diego area to Arizona. Apprehensions in Arizona have skyrocketed over the last decade, as have border deaths. More than 2,000 migrants have died in transit since 1997 according to the government's own statistics. Since the implementation of Operations Gatekeeper and Hold the Line, migrants have been forced to cross the border in more remote and dangerous areas, and have increasingly relied on human smugglers, causing an increase in injury and death as well as criminal activity and violence.

In sum, the nation must move forward on the issue of comprehensive immigration reform. In the meantime, we must ensure that our current immigration laws are applied fairly, and provide all residents with due process of law. America is a nation of immigrants, and this generation of immigrants, many of whom are Latino, deserve the same chance as other generations of immigrants who made America great. Latino immigrants make essential contributions to our economy and society. For all these reasons, we strongly oppose and urge you to oppose the *REAL ID Act*.

Sincerely,

Cuban American National Foundation (CANF)

League of Latin American Citizens (LULAC)

Mexican American Legal Defense and Educational Fund (MALDEF)

National Council of La Raza (NCLR)

National Association of Latino Elected and Appointed Officials (NALEO)

Puerto Rican Legal Defense and Educational Fund (PRLDEF)