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TO: The Honorable Joseph B. Scarnati III
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FROM: Andy Hoover, Legislative Director, ACLU of Pennsylvania

DATE: January 14, 2009

RE: BUDGETARY ISSUES AND FEDERAL REAL ID ACT OF 2005

It has been widely reported that the commonwealth is facing a budget shortfall of \$1.6 billion due to the current economic climate and that next year's budget will require spending cuts. As a result, your offices have started the process of determining where cuts can be made to ensure a balanced budget. Millions of taxpayer dollars could be saved if the commonwealth does not participate in the federal Real ID program.

Governor Rendell has stated that he expects implementing the federal Real ID Act, Pub. L. 109-13, to cost Pennsylvania "\$100 million plus".¹ The U.S. Department of Homeland Security originally estimated that Real ID would cost the states \$23 billion but then scaled back that estimate to \$9.9 billion. A 2006 report from the National Conference of State Legislatures, the National Governors Association, and the American Association of Motor Vehicle Administrators estimated the cost to the states to be at least \$11 billion.²

Meanwhile, Congress has allocated just \$90 million for implementation, to be split amongst the 56 jurisdictions that issue licenses. The federal government appears to have no appetite for funding Real ID and is likely passing that burden onto the states.

Enclosed you will find the ACLU's memo on the DHS revised estimate, "Fuzzy Math and the Real Cost of Real ID". In addition, our Washington Legislative Office has published an analysis of the costs of Real ID, "Real Costs: Assessing the Financial Impact of the Real ID Act on the States".³

In the first half of 2008, the House Intergovernmental Affairs Committee held hearings around the state about Real ID. Kurt Myers, Deputy Secretary of the Department of

¹ Tanner, R. (2005) Governors balk at new US license rules. *Associated Press, July 19, 2005*. Retrieved January 5, 2009, from

http://www.boston.com/news/nation/articles/2005/07/19/governors_balk_at_new_us_license_rules/.

² (2006) The Real ID Act: National Impact Analysis. Retrieved January 5, 2009, from http://www.realnightmare.org/images/File/Real_ID_Impact_Report_FINAL_Sept19.pdf.

³ Available at <http://www.realnightmare.org/images/File/Outline%20of%20Real%20ID%20Costs.pdf>.

Transportation, testified at several of those hearings and noted in his testimony that the department has already implemented security upgrades to the licensing process. PennDOT accomplished this increased security without Real ID.

Eleven states have opted out of Real ID by statute. These eleven states have, therefore, prohibited their state officials from taking any actions to implement Real ID. In the 2007-08 legislative session, Senate Bill 1220, House Bill 1351, and House Bill 2537 would have blocked the implementation of the federal Real ID program in Pennsylvania. HB 2537 unanimously passed the state House of Representatives but was not considered in the Senate.

The deadline for participating in this unfunded federal mandate looms large at the end of this year. PennDOT could move forward in implementing Real ID until it is informed otherwise. Moving forward with Real ID will have a significant impact on the PennDOT budget in the years to come.

Legislation will again be introduced to block Real ID in Pennsylvania. Last session these bills were co-sponsored by both Republicans and Democrats. After the General Assembly reconvenes at the end of this month, we are hopeful that you will move swiftly to pass legislation that opts Pennsylvania out of Real ID.

Enclosure