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STATE GOVERNMENT COMMITTEE
CHAIRMAN

House of Representatives
Commonwealth of Pennsylvania
Harrisburg

January 24, 2017

Honorable Donald J. Trump, President
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear Mr. President:

Congratulations on your election to the Office of President of the United States. We look forward to working with you and your administration to make America great again.

We are writing to you regarding a matter of great concern to a number of Americans – implementation of the federal REAL ID Act -- and we are respectfully asking you to work with the states and the U.S. Congress to resolve the constitutional issues that this law has raised and relieve the states of the massive cost that this law has burdened taxpayers with throughout our nation.

You may be aware that the U.S. Department of Homeland Security (USDHS) made recent announcements regarding the status of Pennsylvania driver's licenses and non-driver ID cards in relation to the REAL ID Act. In October, USDHS notified Pennsylvania that state residents would face new restrictions in entering federal facilities and boarding domestic airline flights because our driver's licenses and the non-driver IDs issued by our Department of Transportation (PennDOT) are not considered to be in full compliance with requirements established by the federal REAL ID Act.

While the October announcement indicated that Pennsylvania would not receive a renewed REAL ID extension at that time, the USDHS has since granted the Commonwealth a limited extension. Pursuant to this extension, dated January 19, citizens of the Commonwealth will not be able to use their driver's license to access nuclear power plants, military bases and secure federal buildings after June 6, 2017. The prior USDHS announcement regarding use of Pennsylvania driver's licenses to board domestic commercial flights remains in place. Thus, Pennsylvanians will not be able to use their driver's licenses to get through airport security starting January 22, 2018, unless USDHS provides another extension or announces that the Commonwealth is in compliance.

While we have concerns regarding the practical impact of these announcements on our constituents' ability to enter federal facilities and board domestic flights, we also have continuing objections to the REAL ID Act. The Pennsylvania General Assembly voiced its objections to this federal mandate in a very concrete way by enacting Act 38 of 2012, the REAL ID Nonparticipation Act. This law bars the Governor of Pennsylvania and PennDOT from participating in REAL ID. [Note: the vote in the state Senate was unanimous; the state House vote was 189-5].

Opposition to the federal REAL ID Act in Pennsylvania has been based on the following concerns:

- **States' Rights** - States have been the exclusive regulator of driver licensing and have instituted their own regulations and policies regarding the issuance of licenses and safety information, and other aspects of transportation policy administration. The Tenth Amendment establishes that "[t]he powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively" By "federalizing" driver licensing the REAL ID Act usurps this power which has been reserved to the states.

- **Cost** - The REAL ID Act imposes a significant unfunded mandate on the states. The National Conference of State Legislators (NCSL) estimated that REAL ID implementation costs over 5 years nationwide could be as much as \$11 billion. PennDOT has received \$5.4 million in federal grants to assist with REAL ID requirements. However, a fiscal analysis of Act 38 of 2012 estimated the initial start-up costs to fully implement REAL ID would be \$141 million. Additionally, when Act 38 was enacted it was anticipated that REAL ID would impose \$39 million in additional, annual operational costs on the Commonwealth. (These costs are expected to increase the price tag of a Pennsylvania driver's license by a substantial amount).
- **Burden on Citizens** - Pennsylvanians will be required to visit a PennDOT facility upon their first renewal after REAL ID compliance, and to produce a certified, raised-seal birth certificate and two proofs of address bearing the person's name, such as a utility or mortgage bill. This will need to be done at 16-year intervals, and upon any change of address regardless of how long the individual has been a licensed driver in the Commonwealth.
- **Privacy** - The REAL ID Act creates a national identity registry by requiring the personal data of every person with an ID to be available to each state and U.S. territory. Accessibility to such personal data could increase the potential for fraud and identity theft.

Given that the REAL ID Law inserts the federal government into a power reserved to the states, we believe that Congress had no constitutional authority to be involved in drivers' licensing. Despite this intrusion, Pennsylvania has improved the security of our driver's licenses and non-driver ID cards. In a September 2016 letter to PennDOT, USDHS confirmed that the Commonwealth had taken 33 specific steps to enhance ID security.

We are respectfully requesting that you assist us in resolving the constitutional and cost issues associated with the REAL ID Act by directing your administration to reexamine the application of its burdensome provisions and encouraging the United States Congress to make changes to the law.

We thank you for your consideration and greatly appreciate your time and attention to this important matter of mutual concern.

Sincerely,

Daryl D. Metcalfe
State Representative
Majority Chairman, House State Government Committee

Hon. Mike Turzai
Speaker, House of Representatives

DDM:gkd

cc:
John F. Kelly, General USMC Retired Secretary-Designee
U.S. Department of Homeland Security

Reince Priebus, White House Chief of Staff

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