

Rep. Opsommer offered the following resolution:

House Resolution No. 98.

A resolution to memorialize Congress to repeal Title II of the REAL ID Act of 2005 and to support a return to a negotiated rulemaking process with the states, as called for in S. 4117, the Identification Security Enhancement Act of 2006.

Whereas, The Intelligence Reform and Terrorism Prevention Act (IRTP) of 2004 called for reforms that would make identification documents more secure, harder to forge, and more difficult to fraudulently obtain; and

Whereas, The IRTP Act of 2004 recognized that imposing federal mandates and standards onto state driver's licenses raised important questions on the federal government's ability and role in interfering with identification cards wholly owned by the states. As a result, the act sought to establish identification security guidelines by a shared and negotiated rule making process in full partnership with the states; and

Whereas, The REAL ID Act of 2005, without benefit of hearings or testimony, was abruptly attached as a rider to a must pass military spending and tsunami relief bill (PL 109-13). Its passage effectively repealed the negotiated rulemaking process already underway as a result of the IRTP Act of 2004, replacing it with methodology designed to directly impose federal standards onto a state's wholly owned licenses under REAL ID; and

Whereas, Under these new standards, the REAL ID Act sets mandated deadlines in the near future under which Michigan's current licenses cannot be used for any federal purpose, minimally including but not limited to such activities as boarding domestic airline flights, opening federally insured bank accounts, and entering into federal buildings; and

Whereas, The REAL ID Act would mandate that Michigan must link parts of its Secretary of State database to the DMVs of all other states, in effect creating one shared database. At the same time, REAL ID sets no standards on the security measures that states must use for gateway access to other states' databases, may allow for non-governmental third parties to administer such databases, and sets no limits on which non-governmental entities could require the cards for goods, services, or other purposes; and

Whereas, The REAL ID Act puts the Department of Homeland Security in charge of determining the as-of-yet published final rules that would mandate what information would need to be included on Michigan's drivers licenses, what biometrics may ultimately be used on the cards (such as digital photography complying to international standards, digital fingerprints, etc.), and what encoding technology may ultimately be required (such as unencrypted bar codes, radio frequency ID technology such as that currently being used in U.S. Passports, etc); and

Whereas, Organizations such as the National Conference of State Legislators, the National Governors Association, and the Department of Homeland Security estimate the aggregate state costs of implementing REAL ID over 5 years to be between \$10.7 and \$14.6 billion, and between \$5.9 and \$7.8 billion for citizens. This represents a large unfunded mandate for Michigan, and seems especially egregious when the federal government refuses to fully enforce existing immigration laws, complete federally promised fence construction projects, or hire sufficient numbers of border control agents; and

Whereas, Regardless of who pays the costs of REAL ID, the aforementioned collectively federalizes Michigan's drivers licenses by determining under what conditions the card can be fully used, what minimal information has to be on the cards, what technology the information is encoded under, and with whom the state must share such data. This federalization occurs without the benefit of a shared negotiated rulemaking process with the states regarding the co-option of their wholly owned licenses; and

Whereas, As a result of these concerns and a recognition that needed reforms can be accomplished without the negative aspects of REAL ID, several states have passed bills or

resolutions asking for repeal or stating that they will not comply with, REAL ID. These states include Arkansas, Hawaii, Idaho, Maine, Montana, North Dakota, and Washington. Fourteen other states have anti-REAL ID initiatives that have passed one chamber, including Georgia, Rhode Island, South Carolina, and Utah. It is important to note that the state of Washington is still pursuing an optional dual-purpose license under the auspice of the separate Western Hemisphere Travel Initiative; and

Whereas, Federal S. 4117, the Identification Security Enhancement Act of 2006 (Sununu R-NH / Akaka D-HI) and similar current legislation, replaces REAL ID with language taken from the original Intelligence Reform and Terrorism Prevention Act of 2004, which took a more measured approach to mandating tougher standards for driver's licenses by requiring that new guidelines be developed by a shared rulemaking process that would fully involve all States and other key stakeholders; now, therefore, be it

Resolved by the House of Representatives, That we memorialize Congress to repeal Title II of the REAL ID Act of 2005 and to support a return to a negotiated rulemaking process with the States, as called for in S. 4117, the Identification Security Enhancement Act of 2006 (Akaka D-HI / Sununu R-NH).

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.