

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007

HCR 1037

4
5 By: Representative Abernathy
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8 **HOUSE CONCURRENT RESOLUTION**

9 TO ENCOURAGE THE ARKANSAS GENERAL ASSEMBLY TO
10 REFUSE TO IMPLEMENT THE REAL ID ACT OF 2005.

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12 **Subtitle**

13 TO ENCOURAGE THE ARKANSAS GENERAL
14 ASSEMBLY TO REFUSE TO IMPLEMENT THE REAL
15 ID ACT OF 2005.
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18 WHEREAS, the United States Congress enacted the REAL ID Act of 2005 as
19 part of the Emergency Supplemental Appropriations Act for Defense, the Global
20 War on Terror, and Tsunami Relief Act, Pub. L. 109-13, which was signed by
21 President Bush on May 11, 2005, and becomes effective May 11, 2008; and
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23 WHEREAS, some of the requirements of the REAL ID Act are that states
24 shall issue a driver's license or state identification card in a uniform
25 format, containing uniform information, as prescribed by the federal
26 Department of Homeland Security; verify the issuance, validity, and
27 completeness of all primary documents used to issue a driver's license, such
28 as those showing that the bearer is a United States citizen or a lawful
29 alien, a lawful refugee, or a person holding a visa; provide for secure
30 storage of all primary documents that are used to issue a federally approved
31 driver's license or state identification card; provide fraudulent document
32 recognition training to all persons engaged in issuing driver's licenses or
33 state identification cards; and issue a driver's license or state
34 identification card in a prescribed format if it is a license or card that
35 does not meet the criteria provided for a federally approved license or
36 identification card; and



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WHEREAS, use of the federal minimum standards for state driver's licenses and state-issued identification cards will be necessary for any type of federally regulated activity for which an identification card must be displayed, including flying in a commercial airplane, making transactions with a federally licensed bank, entering a federal building, or making application for federally supported public assistance benefits, including Social Security; and

WHEREAS, some of the intended privacy requirements of the REAL ID Act, such as the use of common machine-readable technology and state maintenance of a database that can be shared with the United States government and agencies of other states, may actually make it more likely that a federally required driver's license or state identification card or the information about the bearer on which the license or card is based will be stolen, sold, or otherwise used for purposes that were never intended or that are criminally related than if the REAL ID Act had not been enacted; and

WHEREAS, the American Association of Motor Vehicle Administrators, the National Governors Association, and the National Conference of State Legislatures have estimated in a September 2006 impact analysis statement that the cost to the states to implement the REAL ID Act will be more than eleven billion dollars (\$11,000,000,000) over five (5) years and none of the costs will be paid for by the federal government; and

WHEREAS, for all of these reasons, the American Association of Motor Vehicle Administrators, the National Governors Association, and the National Conference of State Legislatures in a letter dated March 17, 2005, to the majority and minority leaders of the United States Senate opposed the adoption of the REAL ID Act, but the opposition of those groups and the groups' request that Congress rely on driver's license security provisions already passed by Congress in the Intelligence Reform and Terrorism Prevention Act of 2004 were largely ignored by Congress; and

WHEREAS, the regulations that are to be adopted by the federal Department of Homeland Security to implement the requirements of the REAL ID

1 Act have yet to be adopted and, in reality, will probably not become
2 effective until the spring of 2007, effectively giving the states only one
3 (1) year in which to become familiar with the requirements of the REAL ID
4 Act, the implementation of the regulations, and compliance with such
5 regulations; and

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7 WHEREAS, the mandate to the states through federal legislation that
8 provides no funding for its requirements to issue what is, in effect, a
9 national identification card appears to be an attempt to commandeer the
10 political machinery of the states and to require the states to be agents of
11 the federal government in violation of the principles of federalism contained
12 in the Tenth Amendment to the United States Constitution, as interpreted by
13 the United States Supreme Court in *New York v. United States*, 488 U.S. 1041
14 (1992), *United States v. Lopez*, 514 U.S. 549 (1995), and *Printz v. United*
15 *States*, 521 U.S. 898 (1997),

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17 NOW THEREFORE,

18 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE EIGHTY-SIXTH GENERAL
19 ASSEMBLY OF THE STATE OF ARKANSAS, THE SENATE CONCURRING THEREIN:

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21 THAT the State of Arkansas hereby refuses to implement the REAL ID Act
22 of 2005 and thereby protests the treatment by Congress and the President of
23 the United States of the states as agents of the federal government and, by
24 such protest, lead other state legislatures and governors to reject the
25 treatment by the federal government of the fifty (50) states by the enactment
26 of the REAL ID Act of 2005.

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28 BE IT FURTHER RESOLVED THAT a copy of this resolution be sent to the
29 Majority Leader of the United States Senate, the Speaker of the United States
30 House of Representatives, and the members of the Arkansas Congressional
31 Delegation.