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\_\_\_\_\_ JOINT MEMORIAL

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

DISCUSSION DRAFT

A JOINT MEMORIAL

OPPOSING THE CREATION OF A NATIONAL IDENTIFICATION CARD AND THE IMPLEMENTATION OF THE REAL ID ACT OF 2005.

WHEREAS, the state of New Mexico recognizes the constitution of the United States as our charter of liberty and the bill of rights as affirming the fundamental and inalienable rights of Americans, including freedom of privacy and freedom from unreasonable searches; and

WHEREAS, New Mexico has a diverse population whose contributions are vital to the state's economy, culture and civic character; and

WHEREAS, New Mexico is proud of its tradition of protecting the civil rights and liberties of all of its residents, affirming the fundamental rights of all people and providing more expansive protections than are granted by the

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1 United States constitution; and

2 WHEREAS, the state of New Mexico denounces terrorism in  
3 all its forms and condemns all acts of terrorism by any entity,  
4 wherever the acts occur; and

5 WHEREAS, any new security measures to protect from  
6 terrorist attacks should be carefully designed to enhance  
7 public safety without infringing on the civil liberties and  
8 rights of citizens; and

9 WHEREAS, the federal REAL ID Act of 2005, Public Law 109-  
10 13, creates a national identification card by mandating federal  
11 standards for state driver's licenses and identification cards  
12 and requiring states to share their motor vehicle databases;  
13 and

14 WHEREAS, the REAL ID Act mandates the documents that  
15 states must require to issue driver's licenses and requires  
16 states to place uniform information on every driver's license  
17 in a standard, machine-readable format; and

18 WHEREAS, the REAL ID Act prohibits federal agencies and  
19 federally regulated commercial aircraft from accepting a  
20 driver's license or identification card issued by a state that  
21 has not fully complied with the act; and

22 WHEREAS, the REAL ID Act places a costly unfunded mandate  
23 on states, with initial estimates for New Mexico of more than  
24 thirty-seven million dollars (\$37,000,000) over five years and  
25 national estimates of more than eleven billion dollars

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1 (\$11,000,000,000) over the next five years; and

2 WHEREAS, the REAL ID Act requires the creation of a  
3 massive public sector database containing information on every  
4 American that is accessible to motor vehicle employees and law  
5 enforcement officers nationwide and that can be used to gather  
6 and manage information on citizens, and this is not the  
7 business or responsibility of government; and

8 WHEREAS, the REAL ID Act enables the creation of  
9 additional massive private sector databases, combining both  
10 transactional information and driver's license information  
11 gained from scanning the machine-readable information contained  
12 on every driver's license; and

13 WHEREAS, these public and private databases are likely to  
14 contain numerous errors and false information, creating  
15 significant hardship for Americans attempting to verify their  
16 identities in order to fly, open a bank account or perform any  
17 of the numerous functions required to live in the United States  
18 today; and

19 WHEREAS, the federal trade commission estimates that ten  
20 million Americans are victims of identity theft annually, and,  
21 because identity thieves are increasingly targeting motor  
22 vehicle departments, the REAL ID Act will enable the crime of  
23 identity theft by making the personal information of all  
24 Americans, including date of birth and signature, accessible  
25 from tens of thousands of locations; and

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1           WHEREAS, the REAL ID Act requires a driver's license to  
2 contain a person's actual home address and makes no exception  
3 for individuals in potential danger, such as undercover law  
4 enforcement or victims of stalking or criminal harassment; and

5           WHEREAS, the REAL ID Act contains onerous record  
6 verification and retention provisions that place unreasonable  
7 burdens on the motor vehicle division of the taxation and  
8 revenue department and on third parties required to verify  
9 records; and

10           WHEREAS, the REAL ID Act will place enormous burdens on  
11 consumers seeking new driver's licenses such as longer lines,  
12 higher costs, increased document requests and a waiting period;  
13 and

14           WHEREAS, the REAL ID Act will place state motor vehicle  
15 staff on the front lines of immigration enforcement by forcing  
16 state employees to determine federal citizenship and  
17 immigration status, excessively burdening both foreign-born  
18 applicants and motor vehicle staff; and

19           WHEREAS, the REAL ID Act passed without sufficient  
20 deliberation by congress and did not receive a hearing by any  
21 congressional committee or a vote solely on its own merits,  
22 despite opposition from more than six hundred organizations;  
23 and

24           WHEREAS, the REAL ID Act eliminated a process of  
25 negotiated rulemaking initiated under the Intelligence Reform

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1 and Terrorism Prevention Act of 2004, which had convened  
2 federal, state and local policymakers, privacy advocates and  
3 industry experts to solve the problem of misuse of identity  
4 documents; and

5 WHEREAS, the REAL ID Act provides little security benefit  
6 and leaves identification systems open to insider fraud,  
7 counterfeit documentation and database failures;

8 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE  
9 STATE OF NEW MEXICO that it support the government of the  
10 United States in its campaign against terrorism, while  
11 affirming the commitment of the United States that the campaign  
12 not be waged at the expense of the essential civil rights and  
13 liberties of the citizens of this country; and

14 BE IT FURTHER RESOLVED that it is the policy of the state  
15 of New Mexico to oppose any portion of the REAL ID Act that  
16 violates the rights and liberties guaranteed under the  
17 constitutions of New Mexico or the United States, including the  
18 bill of rights; and

19 BE IT FURTHER RESOLVED that the New Mexico legislature  
20 enact no legislation nor authorize an appropriation to further  
21 the passage of the REAL ID Act in New Mexico, unless such  
22 appropriation is used exclusively for the purpose of  
23 undertaking a comprehensive analysis of the costs of  
24 implementing the REAL ID Act or to mount a constitutional  
25 challenge to the act by the state attorney general; and

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1 BE IT FURTHER RESOLVED that the New Mexico legislature  
2 urge the New Mexico congressional delegation to support  
3 measures to repeal the REAL ID Act; and

4 BE IT FURTHER RESOLVED that copies of this memorial be  
5 transmitted to President George W. Bush, United States Attorney  
6 General Alberto Gonzales, Governor Bill Richardson, Senator  
7 Pete Domenici, Senator Jeff Bingaman, Representative Tom Udall,  
8 Representative \_\_\_\_\_ and Representative Steve  
9 Pearce.