

HOUSE JOINT MEMORIAL 13

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

INTRODUCED BY

W. Ken Martinez

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

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 its residents,
affirming the fundamental rights of all people and providing
more expansive protections than are granted by the United

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1 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
10 109-13, creates a national identification card by mandating
11 federal standards for state drivers' licenses and
12 identification cards and requiring states to share their motor
13 vehicle databases; and

14 WHEREAS, the REAL ID Act mandates the documents that
15 states must require to issue drivers' 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 all motor vehicle agency
5 employees and law enforcement officers nationwide and that can
6 be used to gather and manage information on citizens, and this
7 is not the 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 agencies, 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 and costly
11 burdens on businesses, public utility companies and
12 governmental and nongovernmental service and health agencies by
13 mandating them to respond to documentation verification
14 requests by the motor vehicle division; and

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

19 WHEREAS, the REAL ID Act will place state motor vehicle
20 division staff on the front lines of immigration enforcement by
21 forcing state employees to determine federal citizenship and
22 immigration status, excessively burdening both foreign-born
23 applicants and motor vehicle division staff; and

24 WHEREAS, New Mexico's policy to permit qualified persons
25 to obtain driver's licenses regardless of immigration status

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1 has increased the safety and financial responsibility of the
2 driving public and has provided substantial benefit to the
3 residents of this state; and

4 WHEREAS, compliance with the REAL ID Act would require New
5 Mexico to create two classes of driver's licenses, or to
6 provide a national identification card to only some of its
7 residents, creating division and promoting discrimination among
8 the people of New Mexico; and

9 WHEREAS, the REAL ID Act was passed without sufficient
10 deliberation by congress and did not receive a hearing by any
11 congressional committee or a vote solely on its own merits,
12 despite opposition from more than six hundred organizations,
13 including national and local organizations such as the national
14 conference of state legislatures, the national governors
15 association, the American association of motor vehicle
16 administrators and the New Mexico municipal league; and

17 WHEREAS, the REAL ID Act eliminated a process of
18 negotiated rulemaking initiated under the Intelligence Reform
19 and Terrorism Prevention Act of 2004, which had convened
20 federal, state and local policymakers, privacy advocates and
21 industry experts to solve the problem of the misuse of identity
22 documents; and

23 WHEREAS, the REAL ID Act provides little security benefit
24 and leaves identification systems open to insider fraud,
25 counterfeit documentation and database failures;

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1 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
2 STATE OF NEW MEXICO that it support the government of the
3 United States in its campaign against terrorism, while
4 affirming the commitment of the United States that the campaign
5 not be waged at the expense of the essential civil rights and
6 liberties of the citizens of this country; and

7 BE IT FURTHER RESOLVED that it is the policy of the state
8 of New Mexico to oppose implementation of any portion of the
9 REAL ID Act; and

10 BE IT FURTHER RESOLVED that the New Mexico legislature
11 defend the rights of states to create their own driver's
12 license procedures and to grant driver's licenses in a manner
13 that best reflects the diversity and unique public safety needs
14 of the states; and

15 BE IT FURTHER RESOLVED that the New Mexico legislature
16 enact no legislation nor authorize an appropriation to further
17 the implementation of the REAL ID Act in New Mexico, unless
18 such appropriation is used to mount a constitutional challenge
19 to the act by the state attorney general; and

20 BE IT FURTHER RESOLVED that the New Mexico legislature
21 call upon the United States congress to repeal the REAL ID Act
22 and urge the New Mexico congressional delegation to support
23 measures to repeal the REAL ID Act; and

24 BE IT FURTHER RESOLVED that copies of this memorial be
25 transmitted to President George W. Bush, United States Attorney

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1 General Alberto Gonzales, Governor Bill Richardson, Senator
2 Pete Domenici, Senator Jeff Bingaman, Representative Tom Udall,
3 Representative Heather Wilson and Representative Steve Pearce.

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