Reps. Espinoza, Meadows, Polidori, Scott, Wojno, Leland, Accavitti, Bieda, Byrnes, Constan, Cushingberry, Dean, Garfield, Griffin, Hammel, Hammon, Hansen, Horn, Kathleen Law, Lemmons, Mayes, Melton, Miller, Opsommer, Spade, Stahl, Tobocman and Vagnozzi offered the following resolution:

House Resolution No. 176.

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.

Whereas, The state of Michigan denounces and condemns all acts of terrorism, wherever the acts occur; and

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, especially when there are federal alternatives. As a result, the Act sought to establish identification security guidelines by a shared and negotiated rulemaking process in full partnership with the states; and

Whereas, The REAL ID Act of 2005, without benefit of Senate 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 Its passage effectively repealed the negotiated rulemaking process already under way as a result of the IRTP Act of 2004, replacing it with methodology designed to directly impose federal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. The draft rules for obtaining a REAL ID are more stringent than those the federal government requires for its own passports or social security cards; 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, including, but not limited to, activities such as boarding domestic airline flights, opening most bank accounts, and gaining entrance to federal buildings such as courts. While citizens could alternatively use passports for such purposes, whether or not non-REAL ID licenses could still be used for the federal purpose of obtaining a passport has not been definitively clarified; 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 be included on Michigan's driver's licenses, with whom the data must be shared, what biometrics may ultimately be used on the cards, and what encoding or other machine-readable technology may ultimately be required. Such action creates a precedent where different or additional rules could also be created again by the federal government in the future; and

Whereas, The REAL ID Act would mandate that Michigan must link parts of its Secretary of State database to the departments of motor vehicles of all other states, in effect creating a single shared national database, while at the same time REAL ID sets no standards whatsoever on the security measures that states must use for gateway access to other states' databases, allows for non-governmental third parties to administer such databases, and sets absolutely no limits on how non-governmental entities will mandate use of the cards for goods, services, or other purposes; and

Whereas, Real ID is an unfunded mandate and the Department of Homeland Security estimates that the regulations will cost the states and consumers $23 billion to implement; and

Whereas, Regardless of who pays for the costs of REAL ID, it would federalize Michigan's driver's licenses by determining under what conditions the card can be used, what information has to be collected and put on the cards, what machine-readable technology the information is encoded under, and to whom the state must give such data. This federalization and creation of a de facto

national identification card 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, seventeen states have already passed bills or resolutions rejecting, asking for repeal, or putting limitations on whether or not they will participate in REAL ID. These states include Arkansas, Colorado, Georgia, Hawaii, Idaho, Illinois, Maine, Missouri, Montana, Nebraska, Nevada, New Hampshire, North Dakota, Oklahoma, South Carolina, Tennessee, and Washington. Ten other states have anti-REAL ID initiatives that have passed one chamber; and

Whereas, Federal S. 117, the Identification Security Enhancement Act of 2006 sponsored by Senators Sununu (R-NH) and Akaka (D-HI), and similar current legislation, replaces REAL ID with language taken from the original Intelligence Reform and Terrorism Prevention Act of 2004. The proposed legislation takes 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, such as called for in S. 117, the Identification Security Enhancement Act of 2006; and be it further

Resolved, That the Michigan Legislature will not appropriate funds nor enact legislation for the implementation of Title II of the REAL ID Act of 2005; and be it further

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.