NOTE: As provided in LFC policy, this report is intended only for use by the standing finance committees of the legislature. The Legislative Finance Committee does not assume responsibility for the accuracy of the information in this report when used for other purposes.

The most recent FIR version (in HTML & Adobe PDF formats) is available on the Legislative Website. The Adobe PDF version includes all attachments, whereas the HTML version does not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR:	НЈС		DATE TYPED:	03/14/03	HB	HJM 40/HJCS
SHORT TITLE: Affirming Civil Righ		ts & Liberties		SB		
				ANAL	YST:	Fox-Young

APPROPRIATION

Appropriati	on Contained	Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			Minimal (See Narrative)		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates SJM 30

SOURCES OF INFORMATION

Responses Received From

Administrative Office of the District Attorneys (AODA) Department of Public Safety (DPS)

No Response

Attorney General (AG)

Public Defender Department (PDD)

SUMMARY

Synopsis of Bill

The House Judiciary Committee Substitute for House Joint Memorial 40 recognizes that federal, state and local governments should protect the public from terrorist attacks but should do so in a manner that ensures protection of civil liberties.

The memorial affirms the Legislature's strong support for fundamental constitutional rights, declaring its opposition to federal measures that infringe on these rights.

The memorial directs the Department of Public Safety (DPS) to discourage the State Police from

House Joint Memorial 40/HJCS -- Page 2

- Engaging in the surveillance of individuals or groups of individuals based on their participation in activities protected by the First Amendment to the U.S. Constitution;
- Using race, religion, ethnicity or national origin as a factor in selecting individuals for investigation;
- Collecting or maintaining information about the political, religious or social views, associations or activities of individuals, groups, businesses, corporations unless such information directly relates to an investigation of criminal activity and there are reasonable grounds to believe that the subject of the information is or may be involved in criminal conduct; and
- Engaging in the practice of stopping drivers or pedestrians for the purpose of scrutinizing their identification documents without reasonable and particularized suspicion of criminal activity and from engaging in searches and seizures unless they are consistent with state laws and rules of court.

The bill directs public schools and institutions of higher education to provide notice to individuals whose education records have been obtained by law enforcement agents pursuant to the USA Patriot Act and directs public libraries to post notices informing the public that records of borrowed materials may be obtained by federal agents.

The bill directs the official in charge of homeland security for the state to obtain information from the federal government, facilitating an assessment of the effect of federal antiterrorism efforts on residents of the state. The official in charge of homeland security shall provide a summary of the information obtained to the Legislature and the Corrections Oversight and Justice Committee at least once every six months.

Copies of the memorial shall be transmitted to Senators Jeff Bingaman and Pete Domenici; Representatives Tom Udall, Heather Wilson and Steve Pearce; President George W. Bush and Attorney General John Ashcroft.

Significant Issues

In the face of broad new federal policies, laws, executive orders, regulations and actions, the memorial outlines parameters for the surveillance and investigation practices of the State Police. While it stops short of demanding accountability from law enforcement agencies, the memorial provides for a method of monitoring the effects of the federal antiterrorism efforts on New Mexico residents.

Additional federal legislation and policy changes, including the proposed Domestic Security Enhancement Act of 2003, will expand on many of the provisions contained in the Patriot Act, further corroborating the concerns expressed in the bill.

In October, 2002, the city of Santa Fe passed a resolution supporting the Bill of Rights and civil liberties for residents of Santa Fe, resolving that local law enforcement uphold residents' rights and liberties and petitioning the state's federal legislative delegation to actively monitor the implementation of the Patriot Act, related executive orders and policy changes.

The Administrative Office of the District Attorneys (AODA) notes that the executive could in-

House Joint Memorial 40/HJCS -- Page 3

voke a separation of powers argument in response to the bill.

FISCAL IMPLICATIONS

There are minimal costs associated with posting notifications and gathering and reporting information from the federal government.

DUPLICATION

Duplicates SJM 30.

JCF/yr/njw