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FISCAL IMPACT REPORT

SPONSOR: McSorley DATE TYPED: 02/20/03 HB _____

SHORT TITLE: Affirming Civil Rights & Liberties SJM 30

ANALYST: Fox-Young

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			.1 Minimal		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates HJM 40

SOURCES OF INFORMATION

Responses Received From
Administrative Office of the District Attorneys (AODA)

No Response
Attorney General (AG)
Department of Public Safety (DPS)
Public Defender Department (PDD)

SUMMARY

Synopsis of Bill

Senate Joint Memorial 30 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 bill affirms the Legislature's support for fundamental constitutional rights, declaring opposition to the USA Patriot Act and related executive orders, regulations and actions that infringe on constitutional rights.

The bill directs the State Police to refrain from carrying out numerous provisions of the Patriot Act, placing parameters on the agency's enforcement of immigration law, surveillance and inves-

tigation practices. The bill directs State Police to report to the Legislature and the Corrections Oversight and Justice Committee any request by federal authorities that is in apparent violation of a city ordinance or of the U.S. or state constitutions. The bill further directs the State Police to direct 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 Patriot Act and to direct 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 seek and report details from the federal government regarding

- The arrest and detention of New Mexico residents as a result of terrorism investigations;
- The number of search warrants executed without notice in the state;
- The extent of electronic surveillance;
- The monitoring of activities protected by the first amendment of the U.S. constitution and
- The number of times education, library and book purchase records have been obtained.

Significant Issues

The bill demands accountability from law enforcement agencies (although it provides specific direction only to the State Police) in the face of broad new federal policies.

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 invoke 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 HJM 40.

JCF/yr