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FISCAL IMPACT REPORT

SPONSOR McSorley DATE TYPED 2/4/2004 HB _____

SHORT TITLE Upholding Bill of Rights & Constitution SB SJM 5/a SRC

ANALYST Valenzuela

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
	NFI		NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts
Department of Public Education

No Response From

Office of Homeland Security
Department of Public Safety

SUMMARY

Synopsis of SRC Amendment

The Senate Rules Committee (SRC) amendment softens the language of the joint memorial by striking the work “direct” and replacing with “request” in reference to requirements for state agencies.

Synopsis of Original Bill

Senate Joint Memorial 5 directs the Department of Public Safety to discourage New Mexico state police from:

1. Conducting surveillance based on a person’s exercise of their First Amendment rights,
2. Using race, religion, ethnicity or national origin as factor for making investigatory decisions,

3. Collecting or maintaining information about a person's religious, political, or social views or associations,
4. Stopping persons without a reasonable suspicion of criminal activity, and
5. Participating in searches unless consistent with New Mexico law.

Senate Joint Memorial 5 directs public schools and institutions of higher education to give persons notice that education records can be obtained by law enforcement under the USA Patriot Act, and directs public libraries to post a warning that library records may be obtained by federal agents without the library patron's knowledge.

Senate Joint Memorial 5 directs the state director of homeland security to request from federal authorities and report to the legislature and interim corrections oversight and justice committee, a summary of information obtained by federal agencies on state residents and to provide a summary to the to the legislature every six months.

Significant Issues

According to civil rights attorneys, nothing in the Family Education Rights and Privacy Act of 1974 (FERPA), the USA PATRIOT Act, or other federal law prohibits educational agencies from notifying individuals whose education records have been obtained by law enforcement agents pursuant to Section 507 of the USA PATRIOT Act. Likewise, nothing in the USA PATRIOT Act prevents the state Director of Homeland Security from reporting on the general scope of anti-terrorism activities in New Mexico to the legislature.

FISCAL IMPLICATIONS

SJM5 does not contain an appropriation. Its enactment could add a minor fiscal and administrative impact to those state agencies referenced in the joint memorial. The fiscal impact would result from requiring its staff to prepare and present reports to the Legislature or interim committee. This nominal amount, though, could be absorbed by these agencies.

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