

underscored material = new
[bracketed material] = delete

1 will enhance public safety without impairing constitutional
2 rights or infringing on civil liberties; and

3 WHEREAS, government security measures that undermine
4 fundamental rights do damage to American institutions and
5 values that the residents of New Mexico hold dear; and

6 WHEREAS, the senate believes that there is no inherent
7 conflict between national security and the preservation of
8 liberty and that Americans can be both safe and free; and

9 WHEREAS, federal policies adopted since September 11,
10 2001, including provisions in Public Law 107-56, known as the
11 USA Patriot Act, and related executive orders, regulations and
12 actions threaten fundamental rights and liberties by:

13 A. authorizing the indefinite incarceration of non-
14 citizens based on mere suspicion and the indefinite
15 incarceration of citizens designated by the president as "enemy
16 combatants" without access to counsel or meaningful recourse to
17 the federal courts;

18 B. limiting the authority of federal courts to curb
19 law enforcement abuse of electronic surveillance in anti-
20 terrorism and ordinary criminal investigations;

21 C. expanding the authority of federal agents to
22 conduct so-called "sneak and peek" or "black bag" searches, in
23 which the subject of the search warrant has not been notified
24 that his or her property has been searched;

25 D. granting federal law enforcement and

. 143811. 1

underscored material = new
[bracketed material] = delete

1 intelligence agencies broad access to personal, medical,
2 financial, library and educational records with little, if any,
3 judicial oversight;

4 E. chilling constitutionally protected speech
5 through overly broad definitions of "terrorism";

6 F. driving a wedge between immigrant communities
7 and the police that protect them by encouraging involvement of
8 state and local police in the enforcement of federal
9 immigration law; and

10 G. permitting the federal bureau of investigation
11 to conduct surveillance of religious services, internet chat
12 rooms, political demonstrations and public meetings of any kind
13 without evidence that a crime has been or may be committed; and

14 WHEREAS, these new powers pose a particular threat to the
15 civil rights and liberties of the residents of New Mexico state
16 who are or who are assumed to be Arab, Muslim or of South Asian
17 descent; and

18 WHEREAS, other communities throughout the country have
19 enacted resolutions reaffirming support for civil rights and
20 civil liberties in the face of government policies that
21 threaten these values and have demanded accountability from law
22 enforcement agencies regarding their use of these new powers;

23 NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE
24 STATE OF NEW MEXICO that it:

25 A. affirm its strong support for fundamental

underscoring material = new
[bracketed material] = delete

1 constitutional rights and its opposition to federal measures
2 that infringe on these rights and liberties;

3 B. affirm its strong support for the rights of
4 immigrants and oppose measures that single out individuals for
5 legal scrutiny or enforcement activity based on their country
6 of origin;

7 C. direct the New Mexico state police to:

8 (1) refrain from participating in the
9 enforcement of federal immigration laws;

10 (2) seek adequate written assurances from
11 federal authorities that residents of the state of New Mexico
12 and individuals in the custody of the state who are placed in
13 federal custody will not be subjected to military or secret
14 detention or secret immigration proceedings without access to
15 counsel and, absent such written assurances, refrain from
16 assisting federal authorities to obtain custody of these
17 individuals;

18 (3) refrain from engaging in the surveillance
19 of individuals or groups of individuals based on their
20 participation in activities protected by the First Amendment to
21 the United States constitution, such as political advocacy or
22 the practice of a religion, without reasonable and
23 particularized suspicion of criminal conduct unrelated to the
24 activity protected by the First Amendment to the United States
25 constitution;

. 143811. 1

underscored material = new
[bracketed material] = del ete

1 (4) refrain from using race, religion,
2 ethnicity or national origin as a factor in selecting who is
3 subject to investigatory activities unless race, religion,
4 ethnicity or national origin is part of the description of a
5 specific suspect to be apprehended;

6 (5) refrain, whether acting alone or with
7 federal law enforcement officers, from collecting or
8 maintaining information about the political, religious or
9 social views, associations or activities of any individual,
10 group, association, organization, corporation, business or
11 partnership unless such information directly relates to an
12 investigation of criminal activity and there are reasonable
13 grounds to believe that the subject of the information is or
14 may be involved in criminal conduct;

15 (6) provide advance or simultaneous notice of
16 the execution of a search warrant to any resident of the state
17 of New Mexico whose property is the subject of the search and
18 refrain from participating in a joint search with any law
19 enforcement agency absent assurances that such a notice will be
20 provided;

21 (7) refrain from undertaking or participating
22 in any initiative, such as the terrorist information and
23 prevention system, also known as TIPS, that encourages members
24 of the general public to spy on their neighbors, colleagues or
25 customers;

underscored material = new
[bracketed material] = delete

1 (8) refrain from the practice of stopping
2 drivers or pedestrians for the purpose of scrutinizing their
3 identification documents without reasonable and particularized
4 suspicion of criminal activity; and

5 (9) report to the legislature and the interim
6 corrections oversight and justice committee, any request by
7 federal authorities that, if granted, would cause agencies of
8 the state to exercise powers or cooperate in the exercise of
9 powers in apparent violation of a city ordinance or the laws or
10 constitution of this state or of the United States;

11 D. direct public schools and institutions of higher
12 education to provide notice to individuals whose education
13 records have been obtained by law enforcement agents pursuant
14 to Section 507 of the USA Patriot Act;

15 E. direct public libraries to post in a prominent
16 place within the library a notice as follows: "WARNING: Under
17 Section 215 of the federal USA Patriot Act (Public Law 107-56),
18 records of books and other materials you borrow from this
19 library may be obtained by federal agents. This law also
20 prohibits librarians from informing you if records about you
21 have been obtained by federal agents. Questions about this
22 policy should be directed to Attorney General John Ashcroft,
23 Department of Justice, Washington, DC 20530."; and

24 F. direct the state official in charge of homeland
25 security for New Mexico to seek periodically from federal

1 authorities the following information in a form that
2 facilitates an assessment of the effect of federal anti-
3 terrorism efforts on the residents of the state of New Mexico
4 and provide to the legislature and the interim corrections
5 oversight and justice committee, no less than once every six
6 months, a summary of the information obtained:

7 (1) the names of all residents of New Mexico
8 who have been arrested or otherwise detained by federal
9 authorities as a result of terrorism investigations since
10 September 11, 2001, and:

- 11 (a) the location of each detainee;
12 (b) the circumstances that led to each
13 detention;
14 (c) the charges, if any, lodged against
15 each detainee; and
16 (d) the name of counsel, if any,
17 representing each detainee;

18 (2) the number of search warrants that have
19 been executed in New Mexico without notice to the subject of
20 the warrant pursuant to Section 213 of the USA Patriot Act;

21 (3) the extent of electronic surveillance
22 carried out in the state pursuant to powers granted in the USA
23 Patriot Act;

24 (4) the extent to which federal authorities
25 are monitoring political meetings, religious gatherings or

underscored material = new
[bracketed material] = del etc

1 other activities within New Mexico that are protected by the
2 first Amendment of the United States constitution;

3 (5) the number of times education records have
4 been obtained from public schools and institutions of higher
5 learning in New Mexico pursuant to Section 507 of the USA
6 Patriot Act;

7 (6) the number of times library records have
8 been obtained from libraries in New Mexico pursuant to Section
9 215 of the USA Patriot Act; and

10 (7) the number of times records of books
11 purchased by store patrons have been obtained from bookstores
12 in New Mexico pursuant to Section 215 of the USA Patriot Act;
13 and

14 BE IT FURTHER RESOLVED that copies of this memorial be
15 transmitted to Senators Jeff Bingaman and Pete Domenici and
16 Representatives Tom Udall, Heather Wilson and Steve Pearce,
17 with a letter urging them to monitor federal anti-terrorism
18 tactics and to work to repeal provisions of the USA Patriot Act
19 and other laws and regulations that infringe on civil rights
20 and liberties; and

21 BE IT FURTHER RESOLVED that copies of this memorial be
22 transmitted to President George W. Bush and Attorney General
23 John Ashcroft; and

24 BE IT FURTHER RESOLVED that a copy of this memorial be
25 transmitted to the state official in charge of homeland

. 143811. 1

1 security for New Mexico; and

2 BE IT FURTHER RESOLVED that copies of this memorial be
3 transmitted to the New Mexico state police and to all public
4 schools, institutions of higher education and public libraries
5 within the state of New Mexico.

6 - 9 -

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

underscored material = new
[bracketed material] = delete