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SENATE JOINT MEMORIAL 5

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Cisco McSorley

A JOINT MEMORIAL

UPHOLDING THE BILL OF RIGHTS AND THE CONSTITUTION OF THE UNITED STATES.

WHEREAS, the state of New Mexico is proud of its long and distinguished tradition of protecting the civil rights and liberties of its residents; and

WHEREAS, New Mexico has a diverse population, including immigrants and students, whose contributions to the community are vital to its economy, culture and civic character; and

WHEREAS, the preservation of civil rights and liberties is essential to the well-being of a democratic society; and

WHEREAS, federal, state and local governments should protect the public from terrorist attacks such as those that occurred on September 11, 2001 and should do so in a rational and deliberative fashion to ensure that new security measures

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

10 WHEREAS, federal policies, laws, executive orders,
11 regulations and actions threaten fundamental rights and
12 liberties by:

13 A. expanding the authority of federal agents to
14 conduct so-called "sneak and peek" or "black bag" searches, in
15 which the subject of the search warrant has not been notified
16 that his or her property has been searched;

17 B. granting federal law enforcement and
18 intelligence agencies broad access to personal, medical,
19 financial, library and educational records with little, if any,
20 judicial oversight;

21 C. limiting the authority of federal courts to
22 monitor law enforcement use of electronic surveillance in
23 antiterrorism and ordinary investigations; and

24 D. allowing the federal bureau of investigation to
25 conduct surveillance of community groups, internet chat rooms,

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1 political demonstrations and public meetings without evidence
2 that a crime has been or may be committed; and

3 WHEREAS, other communities throughout the country have
4 enacted resolutions reaffirming support for civil rights and
5 civil liberties and have sought accountability from law
6 enforcement agencies regarding their use of these new powers;

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

9 A. affirm its strong support for fundamental
10 constitutional rights and its opposition to federal measures
11 that infringe on these rights and liberties;

12 B. affirm its strong support for the rights of
13 immigrants and oppose measures that single out individuals for
14 legal scrutiny or enforcement activity based on their country
15 of origin;

16 C. direct the department of public safety to
17 discourage the New Mexico state police from:

18 (1) engaging in the surveillance of
19 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;

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

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

14 (4) the practice of stopping drivers or
15 pedestrians for the purpose of scrutinizing their
16 identification documents without reasonable and particularized
17 suspicion of criminal activity; and

18 (5) involvement in searches and seizures
19 unless consistent with New Mexico laws and rules of court;

20 D. direct public schools and institutions of higher
21 education to provide notice to individuals whose education
22 records have been obtained by law enforcement agents pursuant
23 to Section 507 of the USA Patriot Act;

24 E. direct public libraries to post in a prominent
25 place within the library a notice as follows: "WARNING: Under

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1 Section 215 of the federal USA Patriot Act (Public Law 107-56),
2 records of books and other materials you borrow from this
3 library may be obtained by federal agents. This law also
4 prohibits librarians from informing you if records about you
5 have been obtained by federal agents. Questions about this
6 policy should be directed to Attorney General John Ashcroft,
7 Department of Justice, Washington, DC 20530."; and

8 F. direct the state official in charge of homeland
9 security for New Mexico to seek periodically from federal
10 authorities information in a form that facilitates an
11 assessment of the effect of federal antiterrorism efforts on
12 the residents of the state of New Mexico and provide to the
13 legislature and the interim corrections oversight and justice
14 committee, no less than once every six months, a summary of the
15 information obtained, and to make this report available to the
16 public; and

17 BE IT FURTHER RESOLVED that copies of this memorial be
18 transmitted to Senators Jeff Bingaman and Pete Domenici and
19 Representatives Tom Udall, Heather Wilson and Steve Pearce; and

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

23 BE IT FURTHER RESOLVED that a copy of this memorial be
24 transmitted to the state official in charge of homeland
25 security for New Mexico; and

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