SENATE JOINT RESOLUTION NO. 19

INTRODUCED BY ELLIOTT, CAMPBELL, COONEY, ELLINGSON, FUREY, HARRINGTON, KAUFMANN, KITZENBERG, MAEDJE, SHOCKLEY, TOOLE, VILLA, WHEAT, WISEMAN

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA SUPPORTING THE MONTANA CONSTITUTION, THE UNITED STATES CONSTITUTION, AND THE BILL OF RIGHTS; ENCOURAGING VARIOUS ACTIONS IN SUPPORT OF FIGHTING TERRORISM AND PROTECTING CIVIL RIGHTS AND CIVIL LIBERTIES; REQUESTING THE ATTORNEY GENERAL OF MONTANA TO COMPILE AND DISSEMINATE RELEVANT INFORMATION REGARDING ACTIONS TAKEN BY THE FEDERAL GOVERNMENT UNDER THE USA PATRIOT ACT; AND ENCOURAGING MONTANA'S CONGRESSIONAL DELEGATION TO SUPPORT AND ENSURE THE CIVIL RIGHTS OF ALL MONTANANS AND CITIZENS OF THE UNITED STATES, WHICH INCLUDES ALLOWING THE USA PATRIOT ACT TO EXPIRE.

WHEREAS, the citizens of Montana recognize the Constitution of the United States as our charter of liberty and that the Bill of Rights enshrines the fundamental and inalienable rights of Americans, including the freedoms of religion, speech, assembly, and privacy; and

WHEREAS, each of Montana's duly elected public servants has sworn to defend and uphold the United States Constitution and the Constitution of the State of Montana; and

WHEREAS, the citizens of Montana denounce and condemn all acts of terrorism by any entity, wherever the acts occur; and

WHEREAS, terrorist attacks against Americans, such as those that occurred on September 11, 2001, have necessitated the crafting of effective laws to protect citizens of the United States and others from terrorist attacks; and

WHEREAS, any new security measures of federal, state, and local governments should be carefully designed and employed to enhance public safety without infringing on the civil liberties and rights of innocent citizens of Montana and the United States; and

WHEREAS, certain provisions of the "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001", also known as the USA PATRIOT Act, allow the federal government to more liberally detain and investigate citizens and to engage in surveillance activities that
may violate or offend the rights and liberties guaranteed by our state and federal constitutions.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF
THE STATE OF MONTANA:

That the 59th Montana Legislature supports the government of the United States in its campaign against
terrorism and affirms the commitment of the United States that the campaign not be waged at the expense of
essential civil rights and liberties of citizens of this country that are protected in the United States Constitution
and the Bill of Rights.

BE IT FURTHER RESOLVED, that it is the policy of the citizens of Montana to oppose any portion of
the USA PATRIOT Act that violates the rights and liberties guaranteed under the Montana Constitution or the
United States Constitution, including the Bill of Rights.

BE IT FURTHER RESOLVED, that in accordance with Montana state policy, in the absence of
reasonable suspicion of criminal activity under Montana law, the 59th Montana Legislature exhorts agents and
instrumentalities of this state to not:

(1) initiate or participate in or assist or cooperate with an inquiry, investigation, surveillance, or detention
under the USA PATRIOT Act if the action violates constitutionally guaranteed civil rights or civil liberties;

(2) record, file, or share intelligence information concerning a person or organization, including library
lending and research records, book and video store sales and rental records, medical records, financial records,
student records, and other personal data, even if authorized under the USA PATRIOT Act, if the action violates
constitutionally guaranteed civil rights or civil liberties; or

(3) retain any of the intelligence information described in subsections (1) and (2) of this clause if the
information violates constitutionally guaranteed civil rights or civil liberties.

BE IT FURTHER RESOLVED, that the Attorney General of Montana is encouraged to review intelligence
information currently held by the state, assess the legality and appropriateness of holding the information under
the United States Constitution and Montana Constitution, and permanently dispose of all such information to
which there is not attached a reasonable suspicion of criminal activity.

BE IT FURTHER RESOLVED, that the 59th Montana Legislature admonishes every agency and
instrumentality of the state to not:

(1) use state resources or institutions for the enforcement of federal immigration matters that are the
responsibility of the federal government;
(2) collect or maintain information about the political, religious, or social views, associations, or activities of any individual, group, association, organization, corporation, business, or partnership unless the information directly relates to an investigation of criminal activities and there are reasonable grounds to suspect that the subject of the information was, is, or may be involved in criminal conduct; or

(3) engage in racial profiling.

BE IT FURTHER RESOLVED, that state and local law enforcement agencies should not use race, religion, ethnicity, or national origin as factors in selecting individuals to subject to investigatory activities, except when seeking to apprehend a specific suspect whose race, religion, ethnicity, or national origin is part of the description of the suspect.

BE IT FURTHER RESOLVED, that the 59th Montana Legislature requests:

(1) public schools and institutions of higher learning within Montana to provide notice to each individual whose education records have been obtained by law enforcement agents pursuant to section 507 of the USA PATRIOT Act; and

(2) each public library within Montana to post in a prominent place within the library a notice to library users as follows: "WARNING: Under Section 215 of the federal USA PATRIOT Act (Public Law 107-56), records of the books and other material you borrow from this library may be obtained by federal agents. Federal law prohibits librarians from informing you if records about you have been obtained by federal agents. Questions about the law and policy that allows federal agents to obtain and use information about your activities in this library should be directed to: U.S. Attorney General, Department of Justice, Washington, DC 20530".

BE IT FURTHER RESOLVED, that the 59th Montana Legislature encourages the Attorney General of Montana to periodically seek from federal authorities the following information in a form that facilitates an assessment of the effect of federal antiterrorism efforts on the residents of Montana:

(1) the name of each resident of Montana who has been arrested or otherwise detained by federal authorities as a result of terrorism investigations since September 11, 2001, the location of each detainee, the circumstances that led to each detention, the charges, if any, lodged against each detainee, and the name of counsel, if any, representing each detainee;

(2) the number of search warrants that have been executed in Montana pursuant to section 213 of the USA PATRIOT Act and without notice to the subject of the warrant;

(3) the extent of electronic surveillance carried out in Montana under powers granted in the USA PATRIOT Act;
(4) the extent to which federal authorities monitor political meetings, religious gatherings, or other activities within Montana that are protected by the First Amendment;

(5) the number of times that education records have been obtained from public schools and institutions of higher learning in Montana under section 507 of the USA PATRIOT Act;

(6) the number of times that library records have been obtained from libraries in Montana under section 215 or section 505 of the USA PATRIOT Act; and

(7) the number of times that records of the books purchased by store patrons from bookstores in Montana have been obtained under section 215 of the USA PATRIOT Act.

BE IT FURTHER RESOLVED, that the 59th Montana Legislature requests the Attorney General of Montana to compile and transmit to each member of the Legislature, at least once every 6 months, a summary of the information obtained pursuant to the legislative requests made in this resolution and, based on the information and any other relevant information, to include an assessment of the effect of federal antiterrorism efforts on the residents of Montana.

BE IT FURTHER RESOLVED, that the 59th Montana Legislature desires that all public libraries adopt policies that ensure the regular destruction of records, when the records are no longer needed, that may be used to identify the name of a book borrower or the name of any Internet user.

BE IT FURTHER RESOLVED, that in order to protect intellectual privacy rights, the 59th Montana Legislature advises all persons in local businesses and institutions, particularly booksellers, to refrain whenever possible from keeping records that can be used to identify the name of any purchaser and to regularly destroy sales records maintained by the business or institution.

BE IT FURTHER RESOLVED, that the 59th Montana Legislature urges the Montana delegation in the United States Congress to:

(1) correct provisions in the USA PATRIOT Act and other administrative measures that infringe on civil liberties by supporting the sunset provisions of the USA PATRIOT Act, slated to be reviewed by Congress in 2005, and ultimately allow the USA PATRIOT Act to expire; and


BE IT FURTHER RESOLVED, that the 59th Montana Legislature urges the Montana Congressional Delegation to vigorously oppose any pending and all future federal legislation if the legislation infringes on the civil rights and civil liberties of American citizens. Federal legislation that the Montana Congressional Delegation...
is encouraged to oppose includes but is not limited to the Domestic Security Enhancement Act of 2003, also
known as Patriot Act II.

BE IT FURTHER RESOLVED, that the Secretary of State send a copy of this resolution to President
George W. Bush, the Attorney General of the United States, Governor Brian Schweitzer, Senator Max Baucus,
Senator Conrad Burns, and Representative Dennis Rehberg.

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