

OIP GROUP 8

Ahmad, Usman

FOIA Exemption b(6)

From: Nielsen, Damion (Judiciary-Rep) [REDACTED]@judiciary-rep.senate.gov
Sent: Wednesday, November 14, 2007 5:18 PM
To: Seldel, Rebecca; Traccl, Robert N; Gerry, Brett (OLP); Kim, Harold H.
Subject: FW:
Attachments: JEN07G37_xml.pdf

EFF2OLA(2)-56

Damion D. Nielsen
United States Senate
Committee on the Judiciary
Senator Arlen Specter

FOIA Exemption b(6)

From: Hayes, Bradley (Judiciary-Rep)
Sent: Wednesday, November 14, 2007 5:15 PM
To: All Judiciary Users
Subject: FW:

EFF2OLA(2)-57

Clarification:

This amendment doesn't replace "U.S. person" everywhere in the bill, it only replaces it in the Wyden provision, which governs surveillance conducted outside the United States. This amendment would limit this overseas warrant requirement to surveillance targeted at U.S. citizens.

From: Hayes, Bradley (Judiciary-Rep)
Sent: Wednesday, November 14, 2007 4:52 PM
To: All Judiciary Users
Subject:

EFF2OLA(2)-58

Senator Sessions or another Senator may offer the attached amendments to S.2248 (FISA):

JEN07G37: This amendment replaces the phrase "United States person" with "United States citizen" at every place it is used in the bill in order to clarify that the bill only applies to U.S. citizens.

Bradley F. Hayes
Senior Counsel
United States Senate Judiciary Committee
Subcommittee on Administrative Oversight and the Courts

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f

FOIA Exemption b(6)

AMENDMENT NO.

Calendar No.

Purpose: To limit the requirement that a warrant be obtained for overseas foreign-intelligence surveillance to surveillance that is targeted at United States citizens.

IN THE SENATE OF THE UNITED STATES—110th Cong., 1st Sess.

S. 2248

To amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. SESSIONS

Viz:

- 1 Beginning on page 6, line 17, through page 8, line
- 2 15—
- 3 (1) strike "United States person" each place
- 4 that term appears and insert "United States cit-
- 5 izen"; and
- 6 (2) strike "United States persons" each place
- 7 that term appears and insert "United States citi-
- 8 zens".

Ahmad, Usman

From: Nielsen, Damion (Judiciary-Rep) [REDACTED]@judiciary-rep.senate.gov
Sent: Wednesday, November 14, 2007 5:17 PM
To: Seldel, Rebecca; Tracci, Robert N; Gerry, Brett (OLP); Kim, Harold H.
Subject: FW: Possible Markup Amendments to S. 2248, FISA
Attachments: HEN07K37_xml.pdf; HEN07K38_xml.pdf

EFF2OLA(2)-59

Damion D. Nielsen
United States Senate
Committee on the Judiciary
Senator Arlen Specter

[REDACTED] FOIA Exemption b(6)

FOIA Exemption b(6)

From: Van Horne, Bill (Cardin) [mailto:[REDACTED]@cardin.senate.gov]
Sent: Wednesday, November 14, 2007 4:21 PM
To: All Judiciary Users
Subject: Possible Markup Amendments to S. 2248, FISA

EFF2OLA(2)-60

Senator Cardin or another Senator may offer the attached amendments to S. 2248 (FISA):

- (1) **Sunset – 2 year: HEN07K37:** This amendment would shorten the sunset of authorities in Title I of the bill (foreign intelligence surveillance) from 6 years to 2 years. It also makes corresponding technical changes to transition procedures in Title III.
- (2) **Sunset – 4 year: HEN07K38:** This amendment would shorten the sunset of authorities in Title I of the bill (foreign intelligence surveillance) from 6 years to 4 years. It also makes corresponding technical changes to transition procedures in Title III.

Bill Van Horne, Esq.
Judiciary Committee Counsel
Senator Benjamin L. Cardin
United States Senate
509 Hart Senate Office Building
Washington, DC 20510

tel: [REDACTED] FOIA Exemption b(6)
fax: [REDACTED]
e-mail: [REDACTED]@cardin.senate.gov
website: <http://cardin.senate.gov/>

AMENDMENT NO. Calendar No.

Purpose: To modify the sunset provision.

IN THE SENATE OF THE UNITED STATES—110th Cong., 1st Sess.

S. 2248

To amend the Foreign Intelligence Surveillance Act of 1978,
to modernize and streamline the provisions of that Act,
and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. CARDIN

Viz:

1 On page 28, line 21, strike "2013" and insert
2 "2009".

3 On page 57, line 18, strike "2013" and insert "2009".

4 On page 57, line 21, strike "2013" and insert
5 "2009".

6 On page 59, line 2, strike "2013" and insert "2009".

1 On page 59, line 6, strike "2013" and insert "2009".

AMENDMENT NO.

Calendar No.

Purpose: To modify the sunset provision.

IN THE SENATE OF THE UNITED STATES—110th Cong., 1st Sess.

S. 2248

To amend the Foreign Intelligence Surveillance Act of 1978,
to modernize and streamline the provisions of that Act,
and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. CARDIN

Viz:

1 On page 28, line 21, strike "2013" and insert
2 "2011".

3 On page 57, line 18, strike "2013" and insert "2011".

4 On page 57, line 21, strike "2013" and insert
5 "2011".

6 On page 59, line 2, strike "2013" and insert "2011".

1 On page 59, line 6, strike "2013" and insert "2011".

Ahmad, Usman

FOIA Exemption b(6)

From: Nielsen, Damion (Judiciary-Rep) [redacted]@judiciary-rep.senate.gov] EFF2OLA(2)-61
Sent: Wednesday, November 14, 2007 5:16 PM
To: Seldel, Rebecca; Traccl, Robert N; Gerry, Brett (OLP); Kim, Harold H.
Subject: FW: Individual amendments to Title I Substitute
Attachments: HEN07K64_xml.pdf; HEN07L25_xml.pdf; HEN07K70_xml.pdf; HEN07L34_xml.pdf; HEN07L26_xml.pdf; HEN07L27_xml.pdf; HEN07L28_xml.pdf; HEN07L29_xml.pdf; HEN07L30_xml.pdf; HEN07L33_xml.pdf

Damion D. Nielsen
 United States Senate
 Committee on the Judiciary
 Senator Arlen Specter

[redacted] FOIA Exemption b(6)

FOIA Exemption b(6)

From: Espinel, Zullma (Judiciary-Dem) [mailto:[redacted]@Judiciary-dem.senate.gov] EFF2OLA(2)-62
Sent: Wednesday, November 14, 2007 4:48 PM
To: All Judiciary Users
Subject: FW: Individual amendments to Title I Substitute

Attached are the individual amendments that make up the Title I substitute amendment that may be offered by Sen.'s Leahy, Feinstein, Whitehouse and Schumer. These amendments include:

- HEN07K70: Stay pending appeal—the government can move to stay the Court's order pending a review by the Court en banc or to the FISA court of review
- HEN07L27: Adds more court oversight of minimization procedures—compliance review and remedial authority
- HEN07L30: IG Audit
- HEN07L33: Allows the Deputy Director of FBI to be a certifying official only if Director of FBI is unavailable
- HEN07L28: Exclusivity provision —this provision is a substitution for the original exclusivity provision in FISA —this provision strengthens the exclusivity of FISA as the exclusive means for targeting US persons for the purpose of acquiring their communications or communications information for foreign intelligence purposes except where specifically authorized by another statute
- HEN07L34: This strengthens the provision prohibiting reverse targeting
- HEN07L26: Use and dissemination limitation amendment —if the Court finds that the certification provided by the administration is deficient, this provides limitations on the use of information acquired under that certification
- HEN07L25: This amendment codifies section 2.5 of executive order 12,333
- HEN07K64: This amendment strikes the redefinition of electronic surveillance and instead explicitly gives the Administration the additional authority to target persons reasonably believed to be outside the U.S. to acquire foreign intelligence information
- HEN07L29: This amendment adds more congressional oversight —it adds a provision to Section 103 providing that the Attorney General will submit to Congress the FISA court orders

FOIA Exemption b(6)

From: Henderson, John (Legis Counsel) [mailto:[redacted]@slc.senate.gov] EFF2OLA(2)-63
Sent: Wednesday, November 14, 2007 3:32 PM
To: Espinel, Zullma (Judiciary-Dem)
Subject: Individual amendments

Here are the individuals. Some didn't change, but attached the .pdf I sent last week.

Individual amendments

<<HEN07K64_xml.pdf>> <<HEN07L25_xml.pdf>> <<HEN07K70_xml.pdf>> <<HEN07L34_xml.pdf>>
<<HEN07L26_xml.pdf>> <<HEN07L27_xml.pdf>> <<HEN07L28_xml.pdf>> <<HEN07L29_xml.pdf>>
<<HEN07L30_xml.pdf>> <<HEN07L33_xml.pdf>>

AMENDMENT NO. Calendar No.

Purpose: To restore the definition of electronic surveillance.

IN THE SENATE OF THE UNITED STATES—110th Cong., 1st Sess.

S. 2248

To amend the Foreign Intelligence Surveillance Act of 1978,
to modernize and streamline the provisions of that Act,
and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. LEAHY

Viz:

- 1 On page 3, strike lines 8 through 14.

- 2 On page 5, lines 21 through 22, strike "any other
3 law" and insert "any other provision of law, including title
4 I".

- 5 On page 12, line 8, after the semicolon add "and".

- 6 On page 12, strike lines 13 through 15.

- 1 On page 29, line 24, strike "(as defined" and all that
- 2 follows through "section 701)" on line 25.

AMENDMENT NO.

Calendar No.

Purpose: To modify the provision relating to United States persons.

IN THE SENATE OF THE UNITED STATES—110th Cong., 1st Sess.

S. 2248

To amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. LEAHY

Viz:

1 On page 6, strike line 17 and all that follows through
2 page 9, line 2, and insert the following:

3 “(c) UNITED STATES PERSONS LOCATED OUTSIDE
4 THE UNITED STATES.—

5 “(1) ACQUISITION INSIDE THE UNITED STATES
6 OF UNITED STATES PERSONS OUTSIDE THE UNITED
7 STATES.—An acquisition authorized under sub-
8 section (a) that constitutes electronic surveillance
9 and occurs inside the United States may not inten-

1 tionally target a United States person reasonably be-
2 lieved to be outside the United States, except in ac-
3 cordance with the procedures under title I.

4 “(2) ACQUISITION OUTSIDE THE UNITED
5 STATES OF UNITED STATES PERSONS OUTSIDE THE
6 UNITED STATES.—

7 “(A) IN GENERAL.—An acquisition by an
8 electronic, mechanical, or other surveillance de-
9 vice outside the United States may not inten-
10 tionally target a United States person reason-
11 ably believed to be outside the United States to
12 acquire the contents of a wire or radio commu-
13 nication sent by or intended to be received by
14 that United States person under circumstances
15 in which a person has reasonable expectation of
16 privacy and a warrant would be required for
17 law enforcement purposes if the technique were
18 used inside the United States unless—

19 “(i) the Foreign Intelligence Surveil-
20 lance Court has entered an order approv-
21 ing electronic surveillance of that United
22 States person under section 105, or in the
23 case of an emergency situation, electronic
24 surveillance against the target is being

1 conducted in a manner consistent with title
2 I; or

3 “(ii)(I) the Foreign Intelligence Sur-
4 veillance Court has entered a order under
5 subparagraph (B) that there is probable
6 cause to believe that the United States
7 person is a foreign power or an agent of a
8 foreign power;

9 “(II) the Attorney General has estab-
10 lished minimization procedures for that ac-
11 quisition that meet the definition of mini-
12 mization procedures under section 101(h);
13 and

14 “(III) the dissemination provisions of
15 the minimization procedures described in
16 subclause (II) have been approved under
17 subparagraph (C).

18 “(B) PROBABLE CAUSE DETERMINATION;
19 REVIEW.—

20 “(i) IN GENERAL.—The Attorney
21 General may submit to the Foreign Intel-
22 ligence Surveillance Court the determina-
23 tion of the Attorney General, together with
24 any supporting affidavits, that a United
25 States person who is outside the United

1 States is a foreign power or an agent of a
2 foreign power.

3 “(ii) REVIEW.—The Court shall re-
4 view, any probable cause determination
5 submitted by the Attorney General under
6 this subparagraph. The review under this
7 clause shall be limited to whether, on the
8 basis of the facts submitted by the Attor-
9 ney General, there is probable cause to be-
10 lieve that the United States person who is
11 outside the United States is a foreign
12 power or an agent of a foreign power.

13 “(iii) ORDER.—If the Court, after
14 conducting a review under clause (ii), de-
15 termines that there is probable cause to
16 believe that the United States person is a
17 foreign power or an agent of a foreign
18 power, the court shall issue an order ap-
19 proving the acquisition. An order under
20 this clause shall be effective for 90 days,
21 and may be renewed for additional 90-day
22 periods.

23 “(iv) NO PROBABLE CAUSE.—If the
24 Court, after conducting a review under
25 clause (ii), determines that there is not

1 probable cause to believe that a United
2 States person is a foreign power or an
3 agent of a foreign power, it shall enter an
4 order so stating and provide a written
5 statement for the record of the reasons for
6 such determination. The Government may
7 appeal an order under this clause to the
8 Foreign Intelligence Surveillance Court of
9 Review.

10 “(C) REVIEW OF MINIMIZATION PROCE-
11 DURES.—

12 “(i) IN GENERAL.—The Foreign Intel-
13 ligence Surveillance Court shall review the
14 minimization procedures applicable to dis-
15 semination of information obtained
16 through an acquisition authorized under
17 subparagraph (A) to assess whether such
18 procedures meet the definition of mini-
19 mization procedures under section 101(h)
20 with respect to dissemination.

21 “(ii) REVIEW.—The Court shall issue
22 an order approving the procedures applica-
23 ble to dissemination as submitted or as
24 modified to comply with section 101(h).

1 employment of an acquisition
2 under subparagraph (A) before a
3 determination of probable cause
4 can with due diligence be ob-
5 tained; and
6 “(bb) the factual basis for
7 issuance of a determination
8 under subparagraph (B) to ap-
9 prove such an acquisition exists;
10 “(II) informs a judge of the For-
11 eign Intelligence Surveillance Court at
12 the time of such authorization that
13 the decision has been made to employ
14 an emergency acquisition;
15 “(III) submits a request in ac-
16 cordance with subparagraph (B) to
17 the judge notified under subclause
18 (II) as soon as practicable, but later
19 than 72 hours after the Attorney Gen-
20 eral authorizes such an acquisition;
21 and
22 “(IV) requires that minimization
23 procedures meeting the definition of
24 minimization procedures under section
25 101(h) be followed.

1 “(ii) TERMINATION.—In the absence
2 of a judicial determination finding probable
3 cause to believe that the United States
4 person that is the subject of an emergency
5 employment of an acquisition under clause
6 (i) is a foreign power or an agent of a for-
7 eign power, the emergency employment of
8 an acquisition under clause (i) shall termi-
9 nate when the information sought is ob-
10 tained, when the request for a determina-
11 tion is denied, or after the expiration of 72
12 hours from the time of authorization by
13 the Attorney General, whichever is earliest.

14 “(iii) USE OF INFORMATION.—If the
15 Court determines that there is not prob-
16 able cause to believe that a United States
17 is a foreign power or an agent of a foreign
18 power in response to a request for a deter-
19 mination under clause (i)(III), or in any
20 other case where the emergency employ-
21 ment of an acquisition under this subpara-
22 graph is terminated and no determination
23 finding probable cause is issued, no infor-
24 mation obtained or evidence derived from
25 such acquisition shall be received in evi-

1 dence or otherwise disclosed in any trial,
2 hearing, or other proceeding in or before
3 any court, grand jury, department, office,
4 agency, regulatory body, legislative com-
5 mittee, or other authority of the United
6 States, a State, or political subdivision
7 thereof, and no information concerning any
8 United States person acquired from such
9 acquisition shall subsequently be used or
10 disclosed in any other manner by Federal
11 officers or employees without the consent
12 of such person, except with the approval of
13 the Attorney General if the information in-
14 dicates a threat of death or serious bodily
15 harm to any person.

16 “(3) PROCEDURES.—

17 “(A) SUBMITTAL TO FOREIGN INTEL-
18 LIGENCE SURVEILLANCE COURT.—Not later
19 than 30 days after the date of the enactment of
20 the FISA Amendments Act of 2007, the Attor-
21 ney General shall submit to the Foreign Intel-
22 ligence Surveillance Court the procedures to be
23 used in determining whether a target reason-
24 ably believed to be outside the United States is
25 a United States person.

1 “(B) REVIEW BY FOREIGN INTELLIGENCE
2 SURVEILLANCE COURT.—The Foreign Intel-
3 ligence Surveillance Court shall review, the pro-
4 cedures submitted under subparagraph (A), and
5 shall approve those procedures if they are rea-
6 sonably designed to determine whether a target
7 reasonably believed to be outside the United
8 States is a United States person. If the Court
9 concludes otherwise, the Court shall enter an
10 order so stating and provide a written state-
11 ment for the record of the reasons for such de-
12 termination. The Government may appeal such
13 an order to the Foreign Intelligence Surveil-
14 ance Court of Review.

15 “(C) USE IN TARGETING.—Any targeting
16 of persons reasonably believed to be located out-
17 side the United States shall use the procedures
18 approved by the Foreign Intelligence Surveil-
19 ance Court under subparagraph (B). Any new
20 or amended procedures may be used with re-
21 spect to the targeting of persons reasonably be-
22 lieved to be located outside the United States
23 upon approval of the new or amended proce-
24 dures by the Court, which shall review such
25 procedures under paragraph (B).

1 “(4) TRANSITION PROCEDURES CONCERNING
2 THE TARGETING OF UNITED STATES PERSONS OVER-
3 SEAS.—Any authorization in effect on the date of
4 enactment of the FISA Amendments Act of 2007
5 under section 2.5 of Executive Order 12333 to in-
6 tentionally target a United States person reasonably
7 believed to be located outside the United States, to
8 acquire the contents of a wire or radio communica-
9 tion sent by or intended to be received by that
10 United States person, shall remain in effect, and
11 shall constitute a sufficient basis for conducting
12 such an acquisition of a United States person lo-
13 cated outside the United States, until that author-
14 ization expires or 90 days after the date of enact-
15 ment of the FISA Amendments Act of 2007, which-
16 ever is earlier.

AMENDMENT NO.

Calendar No.

Purpose: To modify the provision relating to stays pending appeal.

IN THE SENATE OF THE UNITED STATES—110th Cong., 1st Sess.

S. 2248

To amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. LEAHY

Viz:

1 On page 21, strike line 5 through 13 and insert the
2 following:

3 "(B) STAY PENDING APPEAL.—The Gov-
4 ernment may move for a stay of any order of
5 the Foreign Intelligence Surveillance Court
6 under paragraph (5)(B)(i) pending review by
7 the Court en banc or pending appeal to the
8 Foreign Intelligence Surveillance Court of Re-
9 view.

AMENDMENT NO.

Calendar No.

Purpose: To clarify the limitations on the authority to conduct acquisitions.

IN THE SENATE OF THE UNITED STATES--110th Cong., 1st Sess.

S. 2248

To amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. LEAHY

Viz:

1

2 On page 6, lines 10 and 11, strike "acquisition is to
3 target for surveillance" and insert "targeting is to acquire
4 the communications of".

AMENDMENT NO.

Calendar No.

Purpose: To modify the provision relating to correcting deficiencies.

IN THE SENATE OF THE UNITED STATES—110th Cong., 1st Sess.

S. 2248

To amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. LEAHY

Viz:

1 On page 19, strike line 23 and all that follows
2 through page 20, line 14, and insert the following:

3 “(B) CORRECTION OF DEFICIENCIES.—

4 “(i) IN GENERAL.—If the Court finds
5 that a certification required by subsection
6 (g) does not contain all of the required ele-
7 ments, or that the procedures required by
8 subsections (e) and (f) are not consistent
9 with the requirements of those subsections

1 or the fourth amendment to the Constitu-
2 tion of the United States, the Court shall
3 issue an order directing the Government
4 to, at the Government's election and to the
5 extent required by the Court's order—

6 “(I) correct any deficiency identi-
7 fied by the Court's order not later
8 than 30 days after the date the Court
9 issues the order; or

10 “(II) cease the acquisition au-
11 thorized under subsection (a).

12 “(ii) LIMITATION ON USE OF INFOR-
13 MATION.—

14 “(I) IN GENERAL.—Except as
15 provided in subclause (II), no infor-
16 mation obtained or evidence derived
17 from an acquisition under clause (i)(I)
18 shall be received in evidence or other-
19 wise disclosed in any trial, hearing, or
20 other proceeding in or before any
21 court, grand jury, department, office,
22 agency, regulatory body, legislative
23 committee, or other authority of the
24 United States, a State, or political
25 subdivision thereof, and no informa-

1 tion concerning any United States
2 person acquired from such acquisition
3 shall subsequently be used or dis-
4 closed in any other manner by Fed-
5 eral officers or employees without the
6 consent of such person, except with
7 the approval of the Attorney General
8 if the information indicates a threat
9 of death or serious bodily harm to any
10 person.

11 “(II) EXCEPTION.—If the Gov-
12 ernment corrects any deficiency iden-
13 tified by the Court’s order under
14 clause (i), the Court may permit the
15 use or disclosure of information ac-
16 quired before the date of the correc-
17 tion pursuant to such minimization
18 procedures as the Court shall estab-
19 lish for purposes of this clause.

AMENDMENT NO.

Calendar No.

Purpose: To add provisions relating to compliance reviews and remedial authority.

IN THE SENATE OF THE UNITED STATES—110th Cong., 1st Sess.

S. 2248

To amend the Foreign Intelligence Surveillance Act of 1978, to modernize and streamline the provisions of that Act, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. LEAHY

Viz:

1 On page 21, between lines 21 and 22, insert the fol-
2 lowing:

3 "(7) COMPLIANCE REVIEW.—The Court may
4 review and assess compliance with the minimization
5 procedures submitted to the Court pursuant to sub-
6 sections (e) and (f) by reviewing the semiannual as-
7 sessments submitted by the Attorney General and
8 the Director of National Intelligence pursuant to
9 subsection (1)(1) with respect to compliance with

1 minimization procedures. In conducting a review
2 under this paragraph, the Court may, to the extent
3 necessary, require the Government to provide addi-
4 tional information regarding the acquisition, reten-
5 tion, or dissemination of information concerning
6 United States persons during the course of an acqui-
7 sition authorized under subsection (a).

8 “(8) REMEDIAL AUTHORITY.—The Foreign In-
9 telligence Surveillance Court shall have authority to
10 fashion remedies as necessary to enforce—

11 “(A) any order issued under this section;

12 and

13 “(B) compliance with any such order.

AMENDMENT NO.

Calendar No.

Purpose: To clarify the provision relating to exclusive means.

IN THE SENATE OF THE UNITED STATES—110th Cong., 1st Sess.

S. 2248

To amend the Foreign Intelligence Surveillance Act of 1978,
to modernize and streamline the provisions of that Act,
and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. LEAHY

Viz:

- 1 Strike section 102 and insert the following:
- 2 **SEC. 102. STATEMENT OF EXCLUSIVE MEANS BY WHICH**
- 3 **ELECTRONIC SURVEILLANCE AND INTERCEP-**
- 4 **TION OF CERTAIN COMMUNICATIONS MAY BE**
- 5 **CONDUCTED.**
- 6 (a) **STATEMENT OF EXCLUSIVE MEANS.**—Title I of
- 7 the Foreign Intelligence Surveillance Act of 1978 (50
- 8 U.S.C. 1801 et seq.) is amended by adding at the end
- 9 the following new section:

1 "STATEMENT OF EXCLUSIVE MEANS BY WHICH ELEC-
2 TRONIC SURVEILLANCE AND INTERCEPTION OF CER-
3 TAIN COMMUNICATIONS MAY BE CONDUCTED

4 "SEC. 112. (a) This Act shall be the exclusive means
5 for targeting United States persons for the purpose of ac-
6 quiring their communications or communications informa-
7 tion for foreign intelligence purposes, whether such per-
8 sons are inside the United States or outside the United
9 States, except in cases where specific statutory authoriza-
10 tion exists to obtain communications information without
11 an order under this Act.

12 "(b) Chapters 119 and 121 of title 18, United States
13 Code, and this Act shall be the exclusive means by which
14 electronic surveillance and the interception of domestic
15 wire, oral, or electronic communications may be con-
16 ducted.

17 "(c) Subsections (a) and (b) shall apply unless spe-
18 cific statutory authorization for electronic surveillance,
19 other than as an amendment to this Act, is enacted. Such
20 specific statutory authorization shall be the only exception
21 to subsection (a) and (b)."

22 (b) CONFORMING AMENDMENTS.—

23 (1) IN GENERAL.—Section 2511(2)(a) of title
24 18, United States Code, is amended by adding at
25 the end the following: