To modify the Foreign Intelligence Surveillance Act of 1978 to require specific evidence for access to business records and other tangible things, and provide appropriate transition procedures, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. Udall of Colorado (for himself and Mr. Wyden) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To modify the Foreign Intelligence Surveillance Act of 1978 to require specific evidence for access to business records and other tangible things, and provide appropriate transition procedures, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SPECIFIC EVIDENCE FOR COURT ORDERS TO PRODUCE RECORDS AND OTHER ITEMS IN INTELLIGENCE INVESTIGATIONS.

(a) FACTUAL BASIS FOR REQUESTED ORDER.—Section 501(b)(2) of the Foreign Intelligence Surveillance Act
of 1978 (50 U.S.C. 1861(b)(2)) is amended to read as follows:

“(2) shall include—

“(A) a statement of facts showing that there are reasonable grounds to believe that the records or other things sought—

“(i) are relevant to an authorized investigation (other than a threat assessment) conducted in accordance with subsection (a)(2) to obtain foreign intelligence information not concerning a United States person or to protect against international terrorism or clandestine intelligence activities; and

“(ii)(I) pertain to a foreign power or an agent of a foreign power;

“(II) are relevant to the activities of a suspected agent of a foreign power who is the subject of such authorized investigation; or

“(III) pertain to an individual in contact with, or known to, a suspected agent of a foreign power; and

“(B) an enumeration of the minimization procedures adopted by the Attorney General
under subsection (g) that are applicable to the
retention and dissemination by the Federal Bu-
reau of Investigation of any tangible things to
be made available to the Federal Bureau of In-
vestigation based on the order requested in such
application.”.

(b) EXCEPTION.—Notwithstanding the amendment
made by subsection (a), an order issued by a court estab-
lished under section 103(a) of the Foreign Intelligence
Surveillance Act of 1978 (50 U.S.C. 1803) for access to
business records under title V of such Act (50 U.S.C.
1861 et seq.) in effect on, and issued prior to, the effective
date set out in subsection (e), shall remain in effect under
the provisions of such title V in effect on the day before
such effective date, until the date of expiration of such
order. Any renewal or extension of such order shall be sub-
ject to the provisions of such title V in effect on such effect-
tive date.

(c) EFFECTIVE DATE.—The amendment made by
subsection (a) shall take effect on the date that is 6
months after the date of the enactment of this Act.