

113TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

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.

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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

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**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.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SPECIFIC EVIDENCE FOR COURT ORDERS TO**  
4                               **PRODUCE RECORDS AND OTHER ITEMS IN IN-**  
5                               **TELLIGENCE INVESTIGATIONS.**

6       (a) **FACTUAL BASIS FOR REQUESTED ORDER.**—Sec-  
7       tion 501(b)(2) of the Foreign Intelligence Surveillance Act

1 of 1978 (50 U.S.C. 1861(b)(2)) is amended to read as  
2 follows:

3 “(2) shall include—

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

7 “(i) are relevant to an authorized in-  
8 vestigation (other than a threat assess-  
9 ment) conducted in accordance with sub-  
10 section (a)(2) to obtain foreign intelligence  
11 information not concerning a United  
12 States person or to protect against inter-  
13 national terrorism or clandestine intel-  
14 ligence activities; and

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

17 “(II) are relevant to the activities of  
18 a suspected agent of a foreign power who  
19 is the subject of such authorized investiga-  
20 tion; or

21 “(III) pertain to an individual in con-  
22 tact with, or known to, a suspected agent  
23 of a foreign power; and

24 “(B) an enumeration of the minimization  
25 procedures adopted by the Attorney General

1           under subsection (g) that are applicable to the  
2           retention and dissemination by the Federal Bu-  
3           reau of Investigation of any tangible things to  
4           be made available to the Federal Bureau of In-  
5           vestigation based on the order requested in such  
6           application.”.

7           (b) EXCEPTION.—Notwithstanding the amendment  
8           made by subsection (a), an order issued by a court estab-  
9           lished under section 103(a) of the Foreign Intelligence  
10          Surveillance Act of 1978 (50 U.S.C. 1803) for access to  
11          business records under title V of such Act (50 U.S.C.  
12          1861 et seq.) in effect on, and issued prior to, the effective  
13          date set out in subsection (c), shall remain in effect under  
14          the provisions of such title V in effect on the day before  
15          such effective date, until the date of expiration of such  
16          order. Any renewal or extension of such order shall be sub-  
17          ject to the provisions of such title V in effect on such effec-  
18          tive date.

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