

AMENDMENT NO.

Calendar No.

Purpose: To provide a statement of the exclusive means by which electronic surveillance and interception of certain communications may be conducted.

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

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) Except as provided in subsection (b),
5 the procedures of chapters 119, 121 and 206 of title 18,
6 United States Code, and this Act shall be the exclusive
7 means by which electronic surveillance (as defined in sec-
8 tion 101(f), regardless of the limitation of section 701)
9 and the interception of domestic wire, oral, or electronic
10 communications may be conducted.

11 "(b) Only an express statutory authorization for elec-
12 tronic surveillance or the interception of domestic, wire,
13 oral, or electronic communications, other than as an
14 amendment to this Act or chapters 119, 121, or 206 of
15 title 18, United States Code, shall constitute an additional
16 exclusive means for the purpose of subsection (a)."

17 (b) OFFENSE.—Section 109 of the Foreign Intel-
18 ligence Surveillance Act of 1978 (50 U.S.C. 1809) is
19 amended—

20 (1) in subsection (a), by striking "authorized by
21 statute" each place it appears in such section and
22 inserting "authorized by this Act, chapter 119, 121,
23 or 206 of title 18, United States Code, or any ex-
24 press statutory authorization that is an additional

1 exclusive means for conducting electronic surveil-
2 lance under section 112.”; and

3 (2) by adding at the end the following:

4 “(e) DEFINITION.—For the purpose of this section,
5 the term ‘electronic surveillance’ means electronic surveil-
6 lance as defined in section 101(f) of this Act regardless
7 of the limitation of section 701 of this Act.”.

8 (c) CONFORMING AMENDMENTS.—

9 (1) TITLE 18, UNITED STATES CODE.—Section
10 2511(2) of title 18, United States Code, is amend-
11 ed—

12 (A) in paragraph (a), by adding at the end
13 the following:

14 “(iii) If a certification under subpara-
15 graph (ii)(B) for assistance to obtain for-
16 eign intelligence information is based on
17 statutory authority, the certification shall
18 identify the specific statutory provision,
19 and shall certify that the statutory require-
20 ments have been met.”; and

21 (B) in paragraph (f), by striking “, as de-
22 fined in section 101 of such Act,” and inserting
23 “(as defined in section 101(f) of such Act re-
24 gardless of the limitation of section 701 of such
25 Act)”.

1 (2) TABLE OF CONTENTS.—The table of con-
2 tents in the first section of the Foreign Intelligence
3 Surveillance Act of 1978 (50 U.S.C. 1801 et seq.)
4 is amended by adding after the item relating to sec-
5 tion 111, the following:

“Sec. 112. Statement of exclusive means by which electronic surveillance and
interception of certain communications may be conducted.”.