

AMENDMENT NO.

Calendar No.

Purpose: To regulate the judicial use of presidential signing statements in the interpretation of the FISA Amendments Act of 2007.

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. SPECTER

Viz:

1 At the end of the bill, add the following:

2 **TITLE IV—PRESIDENTIAL**
3 **SIGNING STATEMENTS**

4 **SEC. 401. DEFINITION.**

5 As used in this title, the term “presidential signing
6 statement” means a statement issued by the President
7 about a bill, in conjunction with signing that bill into law
8 pursuant to Article I, section 7, of the Constitution.

1 **SEC. 402. JUDICIAL USE OF PRESIDENTIAL SIGNING STATE-**
2 **MENTS.**

3 In determining the meaning of this Act, no Federal
4 or State court shall rely on or defer to a presidential sign-
5 ing statement as a source of authority.

6 **SEC. 403. CONGRESSIONAL RIGHT TO PARTICIPATE IN**
7 **COURT PROCEEDINGS OR SUBMIT CLARI-**
8 **FYING RESOLUTION.**

9 (a) CONGRESSIONAL RIGHT TO PARTICIPATE AS
10 AMICUS CURIAE.—If a presidential signing statement is
11 issued concerning this Act, in any action, suit, or pro-
12 ceeding in any Federal or State court (including the Su-
13 preme Court of the United States), regarding the con-
14 struction or constitutionality, or both, of this Act, the Fed-
15 eral or State Court shall permit the United States Senate,
16 through the Office of Senate Legal Counsel, as authorized
17 in section 701 of the Ethics in Government Act of 1978
18 (2 U.S.C. 288), or the United States House of Represent-
19 atives, through the Office of General Counsel for the
20 United States House of Representatives, or both, to par-
21 ticipate as an amicus curiae, and to present an oral argu-
22 ment on the question of the Act's construction or constitu-
23 tionality, or both. Nothing in this section shall be con-
24 strued to confer standing on any party seeking to bring,
25 or jurisdiction on any court with respect to, any civil or
26 criminal action, including suit for court costs, against

1 Congress, either House of Congress, a Member of Con-
2 gress, a committee or subcommittee of a House of Con-
3 gress, any office or agency of Congress, or any officer or
4 employee of a House of Congress or any office or agency
5 of Congress.

6 (b) CONGRESSIONAL RIGHT TO SUBMIT CLARIFYING
7 RESOLUTION.—In any suit referenced in subsection (a),
8 the full Congress may pass a concurrent resolution declar-
9 ing its view of the proper interpretation of the Act of Con-
10 gress at issue, clarifying Congress's intent or clarifying
11 Congress's findings of fact, or both. If Congress does pass
12 such a concurrent resolution, the Federal or State court
13 shall permit the United States Congress, through the Of-
14 fice of Senate Legal Counsel, to submit that resolution
15 into the record of the case as a matter of right.

16 (c) EXPEDITED CONSIDERATION.—It shall be the
17 duty of each Federal or State court, including the Su-
18 preme Court of the United States, to advance on the dock-
19 et and to expedite to the greatest possible extent the dis-
20 position of any matter brought under subsection (a).

21 **SEC. 404. CONGRESSIONAL RIGHT TO INTERVENE OR SUB-**
22 **MIT CLARIFYING RESOLUTION.**

23 (a) NOTICE TO CONGRESS.—If a presidential signing
24 statement is issued concerning this Act, in any action,
25 suit, or proceeding in the Supreme Court of the United

1 States, wherein the construction or constitutionality, or
2 both, of this Act is at issue, the Supreme Court shall cer-
3 tify such fact to the Office of Senate Legal Counsel and
4 to the Office of General Counsel for the United States
5 House of Representatives.

6 (b) CONGRESSIONAL RIGHT TO INTERVENE.—In any
7 suit referenced in subsection (a), the Supreme Court shall
8 permit the United States Senate, through the Office of
9 Senate Legal Counsel, or the United States House of Rep-
10 resentatives, through the Office of General Counsel for the
11 United States House of Representatives, or both, to inter-
12 vene for presentation of evidence, if evidence is otherwise
13 admissible in the case, and for argument on the question
14 of the Act's construction or constitutionality, or both. The
15 United States Senate and House of Representatives shall,
16 subject to the applicable provisions of law, have all the
17 rights of a party and be subject to all liabilities of a party
18 as to court costs to the extent necessary for a proper pres-
19 entation of the facts and law relating to the question of
20 constitutionality. Nothing in this section shall be con-
21 strued to confer standing on any party seeking to bring,
22 or jurisdiction on any court with respect to, any civil or
23 criminal action, including suit for court costs, against
24 Congress, either House of Congress, a Member of Con-
25 gress, a committee or subcommittee of a House of Con-

1 gress, any office or agency of Congress, or any officer or
2 employee of a House of Congress or any office or agency
3 of Congress.

4 (c) CONGRESSIONAL RIGHT TO SUBMIT CLARIFYING
5 RESOLUTION.—In any suit referenced in subsection (a),
6 the full Congress may pass a concurrent resolution declar-
7 ing its view of the proper interpretation of the Act of Con-
8 gress at issue, clarifying Congress's intent or clarifying
9 Congress's findings of fact, or both. If Congress does pass
10 such a concurrent resolution, the Supreme Court shall per-
11 mit the United States Congress, through the Office of
12 Senate Legal Counsel, to submit that resolution into the
13 record of the case as a matter of right.