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(Original Signature of Member)

114TH CONGRESS
1ST SESSION

H. R.

To repeal the USA PATRIOT Act and the FISA Amendments Act of 2008,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. POCAN introduced the following bill; which was referred to the Committee
on _____

A BILL

To repeal the USA PATRIOT Act and the FISA
Amendments Act of 2008, 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. SHORT TITLE.**

4 This Act may be cited as the “Surveillance State Re-
5 peal Act”.

6 **SEC. 2. REPEAL OF USA PATRIOT ACT.**

7 (a) REPEAL.—The USA PATRIOT Act (Public Law
8 107–56) is repealed, and the provisions of law amended

1 or repealed by such Act are restored or revived as if such
2 Act had not been enacted.

3 (b) DESTRUCTION OF CERTAIN INFORMATION.—The
4 Director of National Intelligence and the Attorney General
5 shall destroy any information collected under the USA
6 PATRIOT Act (Public Law 107-56) and the amendments
7 made by such Act, as in effect the day before the date
8 of the enactment of this Act, concerning a United States
9 person that is not related to an investigation that is ac-
10 tively ongoing on such date.

11 **SEC. 3. REPEAL OF THE FISA AMENDMENTS ACT OF 2008.**

12 (a) REPEAL.—The FISA Amendments Act of 2008
13 (Public Law 110–261; 122 Stat. 2477) is repealed, and
14 the provisions of law amended or repealed by such Act
15 are restored or revived as if such Act had not been en-
16 acted.

17 (b) EXCEPTION.—Subsection (a) of this Act shall not
18 apply to sections 103 and 110 of the FISA Amendments
19 Act of 2008 (Public Law 110–261; 122 Stat. 2477).

20 (c) DESTRUCTION OF CERTAIN INFORMATION.—The
21 Director of National Intelligence and the Attorney General
22 shall destroy any information collected under section 702
23 of the Foreign Intelligence Surveillance Act of 1978 (50
24 U.S.C. 1881a), as in effect the day before the date of the
25 enactment of this Act, concerning a United States person

1 that is not related to an investigation that is actively ongoing on such date.

3 **SEC. 4. TERMS OF JUDGES ON FOREIGN INTELLIGENCE**
4 **SURVEILLANCE COURT; REAPPOINTMENT;**
5 **SPECIAL MASTERS.**

6 (a) **TERMS; REAPPOINTMENT.**—Section 103(d) of the
7 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
8 1803(d)) is amended—

9 (1) by striking “maximum of seven” and inserting
10 “maximum of ten”; and

11 (2) by striking “and shall not be eligible for re-
12 designation”.

13 (b) **SPECIAL MASTERS.**—Section 103(f) of such Act,
14 as amended by section 3 of this Act, is further amended
15 by adding at the end the following new paragraph:

16 “(4) **SPECIAL MASTERS.**—

17 “(A) The courts established pursuant to sub-
18 sections (a) and (b) may appoint one or more Special
19 Masters to advise the courts on technical issues
20 raised during proceedings before the courts.

21 “(B) In this paragraph, the term ‘Special Master’
22 means an individual who has technological expertise in the
23 subject matter of a proceeding before a court established
24 pursuant to subsection (a) or
25 (b).”.

1 **SEC. 5. ELECTRONIC SURVEILLANCE OF SPECIFIED PER-**
2 **SONS WITHOUT REGARD TO SPECIFIC DE-**
3 **VICE.**

4 Section 105(c)(2)(B) of the Foreign Intelligence Sur-
5 veillance Act of 1978 (50 U.S.C. 1805(c)(2)(B)) is amend-
6 ed to read as follows:

7 “(B) that, upon the request of the appli-
8 cant, any person or entity shall furnish the ap-
9 plicant forthwith all information, facilities, or
10 technical assistance necessary to accomplish the
11 electronic surveillance in such a manner as will
12 protect its secrecy and produce a minimum of
13 interference with the services that such carrier,
14 landlord, custodian, or other person is providing
15 that target of electronic surveillance;”.

16 **SEC. 6. ADDITIONAL PROVISIONS FOR COLLECTIONS**
17 **UNDER THE FOREIGN INTELLIGENCE SUR-**
18 **VEILLANCE ACT OF 1978.**

19 (a) IN GENERAL.—Title VII of the Foreign Intel-
20 ligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.),
21 as amended by section 3 of this Act, is further amended
22 to read as follows:

1 **“TITLE VII—ADDITIONAL**
2 **PROVISIONS**

3 **“SEC. 701. WARRANT REQUIREMENT.**

4 “Notwithstanding any other provision of this Act, no
5 information relating to a United States person may be ac-
6 quired pursuant to this Act without a valid warrant based
7 on probable cause.”.

8 (b) TABLE OF CONTENTS AMENDMENTS.—The table
9 of contents in the first section of the Foreign Intelligence
10 Surveillance Act of 1978 (50 U.S.C. 1801 et seq.), as
11 amended by section 3 of this Act, is further amended by
12 striking the items relating to title VII and section 701 and
13 inserting the following new items:

 “TITLE VII—ADDITIONAL PROVISIONS

 “701. Warrant requirement.”.

14 **SEC. 7. ENCRYPTION AND PRIVACY TECHNOLOGY OF ELEC-**
15 **TRONIC DEVICES AND SOFTWARE.**

16 Notwithstanding any other provision of law, the Fed-
17 eral Government shall not mandate that the manufacturer
18 of an electronic device or software for an electronic device
19 build into such device or software a mechanism that allows
20 the Federal Government to bypass the encryption or pri-
21 vacy technology of such device or software.

22 **SEC. 8. GAO COMPLIANCE EVALUATIONS.**

23 (a) IN GENERAL.—The Comptroller General of the
24 United States shall annually evaluate compliance by the

1 Federal Government with the provisions of the Foreign In-
2 telligence Surveillance Act of 1978 (50 U.S.C. 1801 et
3 seq.).

4 (b) REPORT.—The Comptroller General shall annu-
5 ally submit to Congress a report containing the results of
6 the evaluation conducted under subsection (a).

7 **SEC. 9. WHISTLEBLOWER COMPLAINTS.**

8 (a) AUTHORIZATION TO REPORT COMPLAINTS OR
9 INFORMATION.—An employee of or contractor to an ele-
10 ment of the intelligence community that has knowledge of
11 the programs and activities authorized by the Foreign In-
12 telligence Surveillance Act of 1978 (50 U.S.C. 1801 et
13 seq.) may submit a covered complaint—

14 (1) to the Comptroller General of the United
15 States;

16 (2) to the Permanent Select Committee on In-
17 telligence of the House of Representatives;

18 (3) to the Select Committee on Intelligence of
19 the Senate; or

20 (4) in accordance with the process established
21 under section 103H(k)(5) of the National Security
22 Act of 1947 (50 U.S.C. 3033(k)(5)).

23 (b) INVESTIGATIONS AND REPORTS TO CONGRESS.—
24 The Comptroller General shall investigate a covered com-
25 plaint submitted pursuant to subsection (b)(1) and shall

1 submit to Congress a report containing the results of the
2 investigation.

3 (c) COVERED COMPLAINT DEFINED.—In this sec-
4 tion, the term “covered complaint” means a complaint or
5 information concerning programs and activities authorized
6 by the Foreign Intelligence Surveillance Act of 1978 (50
7 U.S.C. 1801 et seq.) that an employee or contractor rea-
8 sonably believes is evidence of—

9 (1) a violation of any law, rule, or regulation;

10 or

11 (2) gross mismanagement, a gross waste of
12 funds, an abuse of authority, or a substantial and
13 specific danger to public health or safety.

14 **SEC. 10. PROHIBITION ON INTERFERENCE WITH REPORT-**
15 **ING OF WASTE, FRAUD, ABUSE, OR CRIMINAL**
16 **BEHAVIOR.**

17 (a) IN GENERAL.—Notwithstanding any other provi-
18 sion of law, no officer or employee of an element of the
19 intelligence community shall take any retaliatory action
20 against an employee of or contractor to an element of the
21 intelligence community who seeks to disclose or discloses
22 covered information to—

23 (1) the Comptroller General;

24 (2) the Permanent Select Committee on Intel-
25 ligence of the House of Representatives;

1 (3) the Select Committee on Intelligence of the
2 Senate; or

3 (4) the Office of the Inspector General of the
4 Intelligence Community.

5 (b) ADMINISTRATIVE SANCTIONS.—An officer or em-
6 ployee of an element of the intelligence community who
7 violates subsection (a) shall be subject to administrative
8 sanctions, up to and including termination.

9 (c) DEFINITIONS.—In this section:

10 (1) COVERED INFORMATION.—The term “cov-
11 ered information” means any information (including
12 classified or sensitive information) that an employee
13 or contractor reasonably believes is evidence of—

14 (A) a violation of any law, rule, or regula-
15 tion; or

16 (B) gross mismanagement, a gross waste
17 of funds, an abuse of authority, or a substantial
18 and specific danger to public health or safety.

19 (2) INTELLIGENCE COMMUNITY.—The term
20 “intelligence community” has the meaning given the
21 term in section 3 of the National Security Act of
22 1947 (50 U.S.C. 3003).

1 **SEC. 11. PROHIBITION OF TARGETING UNITED STATES**
2 **PERSONS UNDER EXECUTIVE ORDER 12333**
3 **WITHOUT A WARRANT.**

4 (a) PROHIBITION ON TARGETING OF UNITED
5 STATES PERSONS WITHOUT A WARRANT.—Notwith-
6 standing any other provision of law, no United States per-
7 son may be the target of an acquisition under Executive
8 Order 12333 without a valid warrant based on probable
9 cause.

10 (b) AUDIT OF COMPLIANCE WITH PROHIBITION.—

11 (1) AUDIT.—The Comptroller General of the
12 United States shall annually conduct an audit of in-
13 telligence collection under Executive Order 12333 to
14 ensure compliance with the requirement under sub-
15 section (a).

16 (2) REPORT.—The Comptroller General shall
17 annually submit to Congress a report containing the
18 results of each audit conducted under paragraph (1).

19 (c) DESTRUCTION OF CERTAIN INFORMATION.—The
20 Director of National Intelligence and the Attorney General
21 shall destroy any information collected under Executive
22 Order 12333 without a valid warrant based on probable
23 cause concerning a United States person that is not re-
24 lated to an investigation that is actively ongoing on the
25 date of the enactment of this Act.