

*Ron Wyden*  
*Ann G. Fisher*

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To provide certain limitations and prohibitions on the development and deployment of the Total Information Awareness program.

IN THE SENATE OF THE UNITED STATES—108th Cong., 1st Sess.

**H.R. 2**

Making further continuing appropriations for the fiscal year ending September 30, 2003, 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. WYDEN (for himself; Mrs. FEINSTEIN) *MR. REID, Mrs. BAKER, MR. CORZINE*

Viz:

- 1 At the end of title I of division M, add the following:
- 2 SEC. 111. (a) LIMITATION ON USE OF FUNDS FOR
- 3 RESEARCH AND DEVELOPMENT ON TOTAL INFORMATION
- 4 AWARENESS PROGRAM.—Notwithstanding any other pro-
- 5 vision of law, commencing 60 days after the date of the
- 6 enactment of this Act, no funds appropriated or otherwise
- 7 made available to the Department of Defense, whether to
- 8 an element of the Defense Advanced Research Projects
- 9 Agency or any other element, or to any other department,

1 agency, or element of the Federal Government, may be  
2 obligated or expended on research and development on the  
3 Total Information Awareness program unless—

4 (1) the report described in subsection (b) is  
5 submitted to Congress not later than 60 days after  
6 the date of the enactment of this Act; or

7 (2) the President certifies to Congress in writ-  
8 ing, that—

9 (A) the submittal of the report to Congress  
10 within 60 days after the date of the enactment  
11 of this Act is not practicable; and

12 (B) the cessation of research and develop-  
13 ment on the Total Information Awareness pro-  
14 gram would endanger the national security of  
15 the United States.

16 (b) REPORT.—The report described in this subsection  
17 is a report, in writing, of the Secretary of Defense, the  
18 Attorney General, and the Director of Central Intelligence,  
19 acting jointly, that—

20 (1) contains—

21 (A) a detailed explanation of the actual  
22 and intended use of funds for each project and  
23 activity of the Total Information Awareness  
24 program, including an expenditure plan for the  
25 use of such funds;

1 (B) the schedule for proposed research and  
2 development on each project and activity of the  
3 Total Information Awareness program; and

4 (C) target dates for the deployment of  
5 each project and activity of the Total Informa-  
6 tion Awareness program;

7 (2) assesses the likely efficacy of systems such  
8 as the Total Information Awareness program in pro-  
9 viding practically valuable predictive assessments of  
10 the plans, intentions, or capabilities of terrorists or  
11 terrorist groups;

12 (3) assesses the likely impact of the implemen-  
13 tation of a system such as the Total Information  
14 Awareness program on privacy and civil liberties;  
15 and

16 (4) sets forth a list of the laws and regulations  
17 that govern the information to be collected by the  
18 Total Information Awareness program, and a de-  
19 scription of any modifications of such laws that will  
20 be required to use the information in the manner  
21 proposed under such program;

22 (5) includes recommendations, endorsed by the  
23 Attorney General, for practices, procedures, regula-  
24 tions, or legislation on the deployment, implementa-  
25 tion, or use of the Total Information Awareness pro-

1       gram to eliminate or minimize adverse effects of  
2       such program on privacy and other civil liberties.

3       (c) LIMITATION ON DEPLOYMENT OF TOTAL INFOR-  
4 MATION AWARENESS PROGRAM.—(1) Notwithstanding  
5 any other provision of law and except as provided in para-  
6 graph (2), if and when research and development on the  
7 Total Information Awareness program, or any component  
8 of such program, permits the deployment or implementa-  
9 tion of such program or component, no department, agen-  
10 cy, or element of the Federal Government may deploy or  
11 implement such program or component, or transfer such  
12 program or component to another department, agency, or  
13 element of the Federal Government, until the Secretary  
14 of Defense—

15           (A) notifies Congress of that development, in-  
16       cluding a specific and detailed description of—

17           (i) each element of such program or com-  
18       ponent intended to be deployed or implemented;  
19       and

20           (ii) the method and scope of the intended  
21       deployment or implementation of such program  
22       or component (including the data or informa-  
23       tion to be accessed or used); and

1 (B) has received specific authorization by law  
2 from Congress for the deployment or implementation  
3 of such program or component, including—

4 (i) a specific authorization by law for the  
5 deployment or implementation of such program  
6 or component; and

7 (ii) a specific appropriation by law of funds  
8 for the deployment or implementation of such  
9 program or component.

10 (2) The limitation in paragraph (1) shall not apply  
11 with respect to the deployment or implementation of the  
12 Total Information Awareness program, or a component of  
13 such program, in support of the following:

14 (A) Lawful military operations of the United  
15 States conducted outside the United States.

16 (B) Lawful foreign intelligence activities con-  
17 ducted wholly overseas, or wholly against non-United  
18 States persons.

19 (d) SENSE OF CONGRESS.—It is the sense of Con-  
20 gress that—

21 (1) the Total Information Awareness program  
22 should not be used to develop technologies for use in  
23 conducting intelligence activities or law enforcement  
24 activities against United States persons without ap-  
25 propriate consultation with Congress or without

1 clear adherence to principles to protect civil liberties  
2 and privacy; and

3 (2) the primary purpose of the Defense Ad-  
4 vanced Research Projects Agency is to support the  
5 lawful activities of the Department of Defense and  
6 the national security programs conducted pursuant  
7 to the laws assembled for codification purposes in  
8 title 50, United States Code.

9 (e) DEFINITIONS.—In this section:

10 (1) TOTAL INFORMATION AWARENESS PRO-  
11 GRAM.—The term “Total Information Awareness  
12 program”—

13 (A) means the computer hardware and  
14 software components of the program known as  
15 Total Information Awareness, any related infor-  
16 mation awareness program, or any successor  
17 program under the Defense Advanced Research  
18 Projects Agency or another element of the De-  
19 partment of Defense; and

20 (B) includes a program referred to in sub-  
21 paragraph (1), or a component of such pro-  
22 gram, that has been transferred from the De-  
23 fense Advanced Research Projects Agency or  
24 another element of the Department of Defense

1           to any other department, agency, or element of  
2           the Federal Government.

3           (2) NON-UNITED STATES PERSON.—The term  
4           “non-United States person” means any person other  
5           than a United States person.

6           (3) UNITED STATES PERSON.—The term  
7           “United States person” has the meaning given that  
8           term in section 101(i) of the Foreign Intelligence  
9           Surveillance Act of 1978 (50 U.S.C. 1801(i)).