

JANUARY 05, 2018

RULES COMMITTEE PRINT 115–53

**TEXT OF HOUSE AMENDMENT TO S. 139, TO IM-
PLEMENT THE USE OF RAPID DNA INSTRU-
MENTS TO INFORM DECISIONS ABOUT PRE-
TRIAL RELEASE OR DETENTION AND THEIR
CONDITIONS, TO SOLVE AND PREVENT VIO-
LENT CRIMES AND OTHER CRIMES, TO EXON-
ERATE THE INNOCENT, TO PREVENT DNA
ANALYSIS BACKLOGS, AND FOR OTHER PUR-
POSES.**

**[Based on the text of H.R. 4478, the FISA Amendments Reau-
thorization Act of 2017, as reported by the Permanent Com-
mittee on Intelligence]**

1 SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

2 (a) SHORT TITLE.—This Act may be cited as the
3 “FISA Amendments Reauthorization Act of 2017”.

4 (b) TABLE OF CONTENTS.—The table of contents for
5 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Amendments to the Foreign Intelligence Surveillance Act of 1978.

**TITLE I—ENHANCEMENTS TO FOREIGN INTELLIGENCE COLLEC-
TION AND SAFEGUARDS, ACCOUNTABILITY, AND OVERSIGHT**

Sec. 101. Querying procedures required.

Sec. 102. Use and disclosure provisions.

Sec. 103. Congressional review and oversight of abouts collection.

Sec. 104. Publication of minimization procedures under section 702.

Sec. 105. Section 705 emergency provision.

Sec. 106. Compensation of amici curiae and technical experts.

- Sec. 107. Additional reporting requirements.
- Sec. 108. Improvements to Privacy and Civil Liberties Oversight Board.
- Sec. 109. Privacy and civil liberties officers.
- Sec. 110. Whistleblower protections for contractors of the intelligence community.
- Sec. 111. Briefing on notification requirements.
- Sec. 112. Inspector General report on queries conducted by Federal Bureau of Investigation.

TITLE II—EXTENSION OF AUTHORITIES, INCREASED PENALTIES, REPORTS, AND OTHER MATTERS

- Sec. 201. Extension of title VII of FISA; effective dates.
- Sec. 202. Increased penalty for unauthorized removal and retention of classified documents or material.
- Sec. 203. Report on challenges to the effectiveness of foreign intelligence surveillance.
- Sec. 204. Comptroller General study on the classification system and protection of classified information.
- Sec. 205. Technical amendments and amendments to improve procedures of the Foreign Intelligence Surveillance Court of Review.
- Sec. 206. Severability.

1 **SEC. 2. AMENDMENTS TO THE FOREIGN INTELLIGENCE**

2 **SURVEILLANCE ACT OF 1978.**

3 Except as otherwise expressly provided, whenever in
4 this Act an amendment or repeal is expressed in terms
5 of an amendment to, or a repeal of, a section or other
6 provision, the reference shall be considered to be made to
7 a section or other provision of the Foreign Intelligence
8 Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

9 **TITLE I—ENHANCEMENTS TO** 10 **FOREIGN INTELLIGENCE** 11 **COLLECTION AND SAFE-** 12 **GUARDS, ACCOUNTABILITY,** 13 **AND OVERSIGHT**

14 **SEC. 101. QUERYING PROCEDURES REQUIRED.**

15 (a) QUERYING PROCEDURES.—

1 (1) IN GENERAL.—Section 702 (50 U.S.C.
2 1881a) is amended—

3 (A) by redesignating subsections (f)
4 through (l) as subsections (g) through (m), re-
5 spectively; and

6 (B) by inserting after subsection (e) the
7 following new subsection:

8 “(f) QUERIES.—

9 “(1) PROCEDURES REQUIRED.—

10 “(A) REQUIREMENT TO ADOPT.—The At-
11 torney General, in consultation with the Direc-
12 tor of National Intelligence, shall adopt
13 querying procedures consistent with the require-
14 ments of the fourth amendment to the Con-
15 stitution of the United States for information
16 collected pursuant to an authorization under
17 subsection (a).

18 “(B) RECORD OF UNITED STATES PERSON
19 QUERY TERMS.—The Attorney General, in con-
20 sultation with the Director of National Intel-
21 ligence, shall ensure that the procedures adopt-
22 ed under subparagraph (A) include a technical
23 procedure whereby a record is kept of each
24 United States person query term used for a
25 query.

1 “(C) JUDICIAL REVIEW.—The procedures
2 adopted in accordance with subparagraph (A)
3 shall be subject to judicial review pursuant to
4 subsection (j).

5 “(2) ACCESS TO RESULTS OF CERTAIN QUERIES
6 CONDUCTED BY FBI.—

7 “(A) COURT ORDER REQUIRED FOR FBI
8 REVIEW OF CERTAIN QUERY RESULTS IN CRIMI-
9 NAL INVESTIGATIONS UNRELATED TO NA-
10 TIONAL SECURITY.—Except as provided by sub-
11 paragraph (E), in connection with a predicated
12 criminal investigation opened by the Federal
13 Bureau of Investigation that does not relate to
14 the national security of the United States, the
15 Federal Bureau of Investigation may not access
16 the contents of communications acquired under
17 subsection (a) that were retrieved pursuant to
18 a query made using a United States person
19 query term that was not designed to find and
20 extract foreign intelligence information unless—

21 “(i) the Federal Bureau of Investiga-
22 tion applies for an order of the Court
23 under subparagraph (C); and

1 “(ii) the Court enters an order under
2 subparagraph (D) approving such applica-
3 tion.

4 “(B) JURISDICTION.—The Court shall
5 have jurisdiction to review an application and to
6 enter an order approving the access described
7 in subparagraph (A).

8 “(C) APPLICATION.—Each application for
9 an order under this paragraph shall be made by
10 a Federal officer in writing upon oath or affir-
11 mation to a judge having jurisdiction under
12 subparagraph (B). Each application shall re-
13 quire the approval of the Attorney General
14 based upon the finding of the Attorney General
15 that the application satisfies the criteria and re-
16 quirements of such application, as set forth in
17 this paragraph, and shall include—

18 “(i) the identity of the Federal officer
19 making the application; and

20 “(ii) an affidavit or other information
21 containing a statement of the facts and
22 circumstances relied upon by the applicant
23 to justify the belief of the applicant that
24 the contents of communications described

1 in subparagraph (A) covered by the appli-
2 cation would provide evidence of—

3 “(I) criminal activity;

4 “(II) contraband, fruits of a
5 crime, or other items illegally pos-
6 sessed by a third party; or

7 “(III) property designed for use,
8 intended for use, or used in commit-
9 ting a crime.

10 “(D) ORDER.—Upon an application made
11 pursuant to subparagraph (C), the Court shall
12 enter an order approving the accessing of the
13 contents of communications described in sub-
14 paragraph (A) covered by the application if the
15 Court finds probable cause to believe that such
16 contents would provide any of the evidence de-
17 scribed in subparagraph (C)(ii).

18 “(E) EXCEPTION.—The requirement for
19 an order of the Court under subparagraph (A)
20 to access the contents of communications de-
21 scribed in such subparagraph shall not apply
22 with respect to a query if the Federal Bureau
23 of Investigation determines there is a reason-
24 able belief that such contents could assist in

1 mitigating or eliminating a threat to life or seri-
2 ous bodily harm.

3 “(F) RULE OF CONSTRUCTION.—Nothing
4 in this paragraph may be construed as—

5 “(i) limiting the authority of the Fed-
6 eral Bureau of Investigation to conduct
7 lawful queries of information acquired
8 under subsection (a);

9 “(ii) limiting the authority of the Fed-
10 eral Bureau of Investigation to review,
11 without a court order, the results of any
12 query of information acquired under sub-
13 section (a) that was reasonably designed to
14 find and extract foreign intelligence infor-
15 mation, regardless of whether such foreign
16 intelligence information could also be con-
17 sidered evidence of a crime; or

18 “(iii) prohibiting or otherwise limiting
19 the ability of the Federal Bureau of Inves-
20 tigation to access the results of queries
21 conducted when evaluating whether to
22 open an assessment or predicated inves-
23 tigation relating to the national security of
24 the United States.

25 “(3) DEFINITIONS.—In this subsection:

1 “(A) The term ‘contents’ has the meaning
2 given that term in section 2510(8) of title 18,
3 United States Code.

4 “(B) The term ‘query’ means the use of
5 one or more terms to retrieve the unminimized
6 contents or noncontents located in electronic
7 and data storage systems of communications of
8 or concerning United States persons obtained
9 through acquisitions authorized under sub-
10 section (a).”.

11 (2) APPLICATION.—Subsection (f) of section
12 702 of the Foreign Intelligence Surveillance Act of
13 1978 (50 U.S.C. 1881a), as added by paragraph (1),
14 shall apply with respect to certifications submitted
15 under subsection (h) of such section to the Foreign
16 Intelligence Surveillance Court after January 1,
17 2018.

18 (b) CONFORMING AMENDMENTS.—

19 (1) AMENDMENTS TO SECTION 702 OF FISA.—
20 Such section 702 is further amended—

21 (A) in subsection (a), by striking “with
22 subsection (i)(3)” and inserting “with sub-
23 section (j)(3)”;

24 (B) in subsection (c)—

1 (i) in paragraph (1)(B), by striking
2 “with subsection (g)” and inserting “with
3 subsection (h)”;

4 (ii) in paragraph (2), by striking “to
5 subsection (i)(3)” and inserting “to sub-
6 section (j)(3)”;

7 (iii) in paragraph (3)—

8 (I) in subparagraph (A), by strik-
9 ing “with subsection (g)” and insert-
10 ing “with subsection (h)”;

11 (II) in subparagraph (B)—

12 (aa) by striking “to sub-
13 section (i)(1)(C)” and inserting
14 “to subsection (j)(1)(C)”;

15 (bb) by striking “under sub-
16 section (i)” and inserting “under
17 subsection (j)”;

18 (C) in subsection (d)(2), by striking “to
19 subsection (i)” and inserting “to subsection
20 (j)”;

21 (D) in subsection (e)(2), by striking “to
22 subsection (i)” and inserting “to subsection
23 (j)”;

24 (E) in subsection (h), as redesignated by
25 subsection (a)(1)—

1 (i) in paragraph (2)(A)(iii), by strik-
2 ing “with subsection (f)” and inserting
3 “with subsection (g)”;

4 (ii) in paragraph (3), by striking
5 “with subsection (i)(1)(C)” and inserting
6 “with subsection (j)(1)(C)”; and

7 (iii) in paragraph (6), by striking “to
8 subsection (i)” and inserting “to sub-
9 section (j)”;

10 (F) in subsection (j), as redesignated by
11 subsection (a)(1)—

12 (i) in paragraph (1)—

13 (I) in subparagraph (A), by strik-
14 ing “targeting and minimization pro-
15 cedures adopted in accordance with
16 subsections (d) and (e)” and inserting
17 “targeting, minimization, and
18 querying procedures adopted in ac-
19 cordance with subsections (d), (e),
20 and (f)(1)”;

21 (II) in subparagraph (B), by
22 striking “targeting and minimization
23 procedures adopted in accordance with
24 subsections (d) and (e)” and inserting
25 “targeting, minimization, and

1 querying procedures adopted in ac-
2 cordance with subsections (d), (e),
3 and (f)(1)”; and

4 (III) in subparagraph (C), by
5 striking “targeting and minimization
6 procedures adopted in accordance with
7 subsections (d) and (e)” and inserting
8 “targeting, minimization, and
9 querying procedures adopted in ac-
10 cordance with subsections (d), (e),
11 and (f)(1)”;
12

(ii) in paragraph (2)—

13 (I) in subparagraph (A), by strik-
14 ing “with subsection (g)” and insert-
15 ing “with subsection (h)”; and

16 (II) by adding at the end the fol-
17 lowing:

18 “(D) QUERYING PROCEDURES.—The
19 querying procedures adopted in accordance with
20 subsection (f)(1) to assess whether such proce-
21 dures comply with the requirements of such
22 subsection.”;

23 (iii) in paragraph (3)—

24 (I) in subparagraph (A)—

1 (aa) by striking “with sub-
2 section (g)” and inserting “with
3 subsection (h)”; and

4 (bb) by striking “targeting
5 and minimization procedures
6 adopted in accordance with sub-
7 sections (d) and (e)” and insert-
8 ing “targeting, minimization, and
9 querying procedures adopted in
10 accordance with subsections (d),
11 (e), and (f)(1)”; and

12 (II) in subparagraph (B), in the
13 matter before clause (i)—

14 (aa) by striking “with sub-
15 section (g)” and inserting “with
16 subsection (h)”; and

17 (bb) by striking “with sub-
18 sections (d) and (e)” and insert-
19 ing “with subsections (d), (e),
20 and (f)(1)”; and

21 (iv) in paragraph (5)(A)—

22 (I) by striking “with subsection
23 (g)” and inserting “with subsection
24 (h)”; and

1 (II) by striking “with subsections
2 (d) and (e)” and inserting “with sub-
3 sections (d), (e), and (f)(1)”; and
4 (G) in subsection (m), as redesignated by
5 subsection (a)(1)—

6 (i) in paragraph (1), in the matter be-
7 fore subparagraph (A)—

8 (I) by striking “targeting and
9 minimization procedures adopted in
10 accordance with subsections (d) and
11 (e)” and inserting “targeting, mini-
12 mization, and querying procedures
13 adopted in accordance with sub-
14 sections (d), (e), and (f)(1)”; and

15 (II) by striking “with subsection
16 (f)” and inserting “with subsection
17 (g)”; and
18 (ii) in paragraph (2)(A)—

19 (I) by striking “targeting and
20 minimization procedures adopted in
21 accordance with subsections (d) and
22 (e)” and inserting “targeting, mini-
23 mization, and querying procedures
24 adopted in accordance with sub-
25 sections (d), (e), and (f)(1)”; and

1 (II) by striking “with subsection
2 (f)” and inserting “with subsection
3 (g)”.

4 (2) AMENDMENTS TO FISA.—The Foreign In-
5 telligence Surveillance Act of 1978 (50 U.S.C. 1801
6 et seq.) is further amended—

7 (A) by striking “section 702(h)” each
8 place it appears and inserting “section 702(i”;

9 (B) by striking “section 702(g)” each
10 place it appears and inserting “section 702(h”;
11 and

12 (C) in section 707(b)(1)(G)(ii), by striking
13 “subsections (d), (e), and (f)” and inserting
14 “subsections (d), (e), (f)(1), and (g)”.

15 (3) AMENDMENTS TO FISA AMENDMENTS ACT
16 OF 2008.—Section 404 of the Foreign Intelligence
17 Surveillance Act of 1978 Amendments Act of 2008
18 (Public Law 110–261; 50 U.S.C. 1801 note) is
19 amended—

20 (A) in subsection (a)(7)(B)—

21 (i) by striking “under section
22 702(i)(3)” and inserting “under section
23 702(j)(3)”;

24 (ii) by striking “of section 702(i)(4)”
25 and inserting “of section 702(j)(4)”;

- 1 (B) in subsection (b)—
- 2 (i) in paragraph (3)—
- 3 (I) in subparagraph (A), by strik-
- 4 ing “to section 702(h)” and inserting
- 5 “to section 702(i)”; and
- 6 (II) in subparagraph (B)—
- 7 (aa) by striking “section
- 8 702(h)(3) of” and inserting “sec-
- 9 tion 702(i)(3) of”; and
- 10 (bb) by striking “to section
- 11 702(h)” and inserting “to section
- 12 702(i)”; and
- 13 (ii) in paragraph (4)—
- 14 (I) in subparagraph (A), by strik-
- 15 ing “and sections 702(l)” and insert-
- 16 ing “and sections 702(m)”; and
- 17 (II) in subparagraph (B)(iv), by
- 18 striking “or section 702(l)” and in-
- 19 serting “or section 702(m)”.

20 **SEC. 102. USE AND DISCLOSURE PROVISIONS.**

- 21 (a) **END USE RESTRICTION.**—Section 706(a) (50
- 22 U.S.C. 1881e(a)) is amended—
- 23 (1) by striking “Information acquired” and in-
- 24 serting the following:
- 25 “(1) **IN GENERAL.**—Information acquired”; and

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

2 “(2) UNITED STATES PERSONS.—

3 “(A) IN GENERAL.—Any information con-
4 cerning a United States person acquired under
5 section 702 shall not be used in evidence
6 against that United States person pursuant to
7 paragraph (1) in any criminal proceeding un-
8 less—

9 “(i) the Federal Bureau of Investiga-
10 tion obtained an order of the Foreign In-
11 telligence Surveillance Court to access such
12 information pursuant to section 702(f)(2);
13 or

14 “(ii) the Attorney General determines
15 that—

16 “(I) the criminal proceeding af-
17 fects, involves, or is related to the na-
18 tional security of the United States;
19 or

20 “(II) the criminal proceeding in-
21 volves—

22 “(aa) death;

23 “(bb) kidnapping;

1 “(cc) serious bodily injury,
2 as defined in section 1365 of title
3 18, United States Code;

4 “(dd) conduct that con-
5 stitutes a criminal offense that is
6 a specified offense against a
7 minor, as defined in section 111
8 of the Adam Walsh Child Protec-
9 tion and Safety Act of 2006 (34
10 U.S.C. 20911);

11 “(ee) incapacitation or de-
12 struction of critical infrastruc-
13 ture, as defined in section
14 1016(e) of the USA PATRIOT
15 Act (42 U.S.C. 5195c(e));

16 “(ff) cybersecurity, including
17 conduct described in section
18 1016(e) of the USA PATRIOT
19 Act (42 U.S.C. 5195c(e)) or sec-
20 tion 1029, 1030, or 2511 of title
21 18, United States Code;

22 “(gg) transnational crime,
23 including transnational narcotics
24 trafficking and transnational or-
25 ganized crime; or

1 “(hh) human trafficking.

2 “(B) NO JUDICIAL REVIEW.—A determina-
3 tion by the Attorney General under subpara-
4 graph (A)(ii) is not subject to judicial review.”.

5 (b) INTELLIGENCE COMMUNITY DISCLOSURE PROVI-
6 SION.—Section 603 (50 U.S.C. 1873) is amended—

7 (1) in subsection (b)—

8 (A) in paragraph (1), by striking “good
9 faith estimate of the number of targets of such
10 orders;” and inserting the following: “good faith
11 estimate of—

12 “(A) the number of targets of such orders;

13 “(B) the number of targets of such orders
14 who are known to not be United States persons;
15 and

16 “(C) the number of targets of such orders
17 who are known to be United States persons;”;

18 (B) in paragraph (2)—

19 (i) in the matter preceding subpara-
20 graph (A), by inserting “, including pursu-
21 ant to subsection (f)(2) of such section,”
22 after “section 702”;

23 (ii) by redesignating subparagraphs
24 (A) and (B) as subparagraphs (B) and
25 (C), respectively;

1 (iii) by inserting before subparagraph
2 (B), as so redesignated, the following:

3 “(A) the number of targets of such or-
4 ders;”;

5 (iv) in subparagraph (B), as so redes-
6 ignated, by striking “and” at the end; and

7 (v) by adding at the end the following:

8 “(D) the number of instances in which the
9 Federal Bureau of Investigation opened, under
10 the Criminal Investigative Division or any suc-
11 cessor division, an investigation of a United
12 States person (who is not considered a threat to
13 national security) based wholly or in part on an
14 acquisition authorized under such section;”;

15 (C) in paragraph (3)(A), by striking “or-
16 ders; and” and inserting the following: “orders,
17 including—

18 “(i) the number of targets of such or-
19 ders who are known to not be United
20 States persons; and

21 “(ii) the number of targets of such or-
22 ders who are known to be United States
23 persons; and”;

1 (D) by redesignating paragraphs (4), (5),
2 and (6) as paragraphs (5), (6), and (7), respec-
3 tively; and

4 (E) by inserting after paragraph (3) the
5 following:

6 “(4) the number of criminal proceedings in
7 which the United States or a State or political sub-
8 division thereof provided notice pursuant to sub-
9 section (c) or (d) of section 106 (including with re-
10 spect to information acquired from an acquisition
11 conducted under section 702) or subsection (d) or
12 (e) of section 305 of the intent of the government
13 to enter into evidence or otherwise use or disclose
14 any information obtained or derived from electronic
15 surveillance, physical search, or an acquisition con-
16 ducted pursuant to this Act;” and

17 (2) in subsection (d)—

18 (A) in paragraph (1), by striking “(4), or
19 (5)” and inserting “(5), or (6)”;

20 (B) in paragraph (2)(A)—

21 (i) by striking “Paragraphs (2)(A),
22 (2)(B), and (5)(C)” and inserting “Para-
23 graphs (2)(B), (2)(C), and (6)(C)”;

24 (ii) by inserting before the period at
25 the end the following: “, except with re-

1 spect to information required under para-
2 graph (2) relating to orders issued under
3 section 702(f)(2)”; and

4 (C) in paragraph (3)(A), in the matter
5 preceding clause (i), by striking “subsection
6 (b)(2)(B)” and inserting “subsection
7 (b)(2)(C)”.

8 **SEC. 103. CONGRESSIONAL REVIEW AND OVERSIGHT OF**
9 **ABOUTS COLLECTION.**

10 (a) IN GENERAL.—Section 702(b) (50 U.S.C.
11 1881a(b)) is amended—

12 (1) in paragraph (4), by striking “and” at the
13 end;

14 (2) by redesignating paragraph (5) as para-
15 graph (6); and

16 (3) by inserting after paragraph (4) the fol-
17 lowing:

18 “(5) may not intentionally acquire communica-
19 tions that contain a reference to, but are not to or
20 from, a target of an acquisition authorized under
21 subsection (a), except as provided under section
22 103(b) of the FISA Amendments Reauthorization
23 Act of 2017; and”.

24 (b) CONGRESSIONAL REVIEW AND OVERSIGHT OF
25 ABOUTS COLLECTION.—

1 (1) DEFINITIONS.—In this subsection:

2 (A) The term “abouts communication”
3 means a communication that contains a ref-
4 erence to, but is not to or from, a target of an
5 acquisition authorized under section 702(a) of
6 the Foreign Intelligence Surveillance Act of
7 1978 (50 U.S.C. 1881a(a)).

8 (B) The term “material breach” means
9 significant noncompliance with applicable law or
10 an order of the Foreign Intelligence Surveil-
11 lance Court concerning any acquisition of
12 abouts communications.

13 (2) SUBMISSION TO CONGRESS.—

14 (A) REQUIREMENT.—Notwithstanding any
15 other provision of law, and except as provided
16 in paragraph (4), if the Attorney General and
17 the Director of National Intelligence intend to
18 implement the authorization of the intentional
19 acquisition of abouts communications, before
20 the first such implementation after the date of
21 enactment of this Act, the Attorney General
22 and the Director of National Intelligence shall
23 submit to the Committee on the Judiciary and
24 the Select Committee on Intelligence of the
25 Senate and the Committee on the Judiciary and

1 the Permanent Select Committee on Intelligence
2 of the House of Representatives a written no-
3 tice of the intent to implement the authoriza-
4 tion of such an acquisition, and any supporting
5 materials in accordance with this subsection.

6 (B) CONGRESSIONAL REVIEW PERIOD.—
7 During the 30-day period beginning on the date
8 written notice is submitted under subparagraph
9 (A), the Committee on the Judiciary and the
10 Select Committee on Intelligence of the Senate
11 and the Committee on the Judiciary and the
12 Permanent Select Committee on Intelligence of
13 the House of Representatives shall, as appro-
14 priate, hold hearings and briefings and other-
15 wise obtain information in order to fully review
16 the written notice.

17 (C) LIMITATION ON ACTION DURING CON-
18 GRESSIONAL REVIEW PERIOD.—Notwith-
19 standing any other provision of law, and subject
20 to paragraph (4), unless the Attorney General
21 and the Director of National Intelligence make
22 a determination pursuant to section 702(c)(2)
23 of the Foreign Intelligence Surveillance Act of
24 1978 (50 U.S.C. 1881a(c)(2)), the Attorney
25 General and the Director of National Intel-

1 ligence may not implement the authorization of
2 the intentional acquisition of abouts commu-
3 nications before the end of the period described
4 in subparagraph (B).

5 (3) WRITTEN NOTICE.—Written notice under
6 paragraph (2)(A) shall include the following:

7 (A) A copy of any certification submitted
8 to the Foreign Intelligence Surveillance Court
9 pursuant to section 702 of the Foreign Intel-
10 ligence Surveillance Act of 1978 (50 U.S.C.
11 1881a), or amendment thereto, authorizing the
12 intentional acquisition of abouts communica-
13 tions, including all affidavits, procedures, exhib-
14 its, and attachments submitted therewith.

15 (B) The decision, order, or opinion of the
16 Foreign Intelligence Surveillance Court approv-
17 ing such certification, and any pleadings, appli-
18 cations, or memoranda of law associated with
19 such decision, order, or opinion.

20 (C) A summary of the protections in place
21 to detect any material breach.

22 (D) Data or other results of modeling, sim-
23 ulation, or auditing of sample data dem-
24 onstrating that any acquisition method involv-
25 ing the intentional acquisition of abouts com-

1 munications shall be conducted in accordance
2 with title VII of the Foreign Intelligence Sur-
3 veillance Act of 1978 (50 U.S.C. 1881 et seq.),
4 if such data or other results exist at the time
5 the written notice is submitted and were pro-
6 vided to the Foreign Intelligence Surveillance
7 Court.

8 (E) Except as provided under paragraph
9 (4), a statement that no acquisition authorized
10 under subsection (a) of such section 702 shall
11 include the intentional acquisition of an abouts
12 communication until after the end of the 30-day
13 period described in paragraph (2)(B).

14 (4) EXCEPTION FOR EMERGENCY ACQUISI-
15 TION.—

16 (A) NOTICE OF DETERMINATION.—If the
17 Attorney General and the Director of National
18 Intelligence make a determination pursuant to
19 section 702(c)(2) of the Foreign Intelligence
20 Surveillance Act of 1978 (50 U.S.C.
21 1881a(c)(2)) with respect to the intentional ac-
22 quisition of abouts communications, the Attor-
23 ney General and the Director of National Intel-
24 ligence shall notify the Committee on the Judi-
25 ciary and the Select Committee on Intelligence

1 of the Senate and the Committee on the Judici-
2 ary and the Permanent Select Committee on
3 Intelligence of the House of Representatives as
4 soon as practicable, but not later than 7 days
5 after the determination is made.

6 (B) IMPLEMENTATION OR CONTINU-
7 ATION.—

8 (i) IN GENERAL.—If the Foreign In-
9 telligence Surveillance Court approves a
10 certification that authorizes the intentional
11 acquisition of abouts communications be-
12 fore the end of the 30-day period described
13 in paragraph (2)(B), the Attorney General
14 and the Director of National Intelligence
15 may authorize the immediate implementa-
16 tion or continuation of that certification if
17 the Attorney General and the Director of
18 National Intelligence jointly determine that
19 exigent circumstances exist such that with-
20 out such immediate implementation or con-
21 tinuation intelligence important to the na-
22 tional security of the United States may be
23 lost or not timely acquired.

24 (ii) NOTICE.—The Attorney General
25 and the Director of National Intelligence

1 shall submit to the Committee on the Judi-
2 ciary and the Select Committee on Intel-
3 ligence of the Senate and the Committee
4 on the Judiciary and the Permanent Select
5 Committee on Intelligence of the House of
6 Representatives notification of a deter-
7 mination pursuant to clause (i) as soon as
8 practicable, but not later than 3 days after
9 the determination is made.

10 (5) REPORTING OF MATERIAL BREACH.—Sub-
11 section (m) of section 702 (50 U.S.C. 1881a), as re-
12 designated by section 101, is amended—

13 (A) in the heading by striking “AND RE-
14 VIEWS” and inserting “REVIEWS, AND REPORT-
15 ING”; and

16 (B) by adding at the end the following new
17 paragraph:

18 “(4) REPORTING OF MATERIAL BREACH.—

19 “(A) IN GENERAL.—The head of each ele-
20 ment of the intelligence community involved in
21 the acquisition of abouts communications shall
22 fully and currently inform the Committees on
23 the Judiciary of the House of Representatives
24 and the Senate and the congressional intel-
25 ligence committees of a material breach.

1 “(B) DEFINITIONS.—In this paragraph:

2 “(i) The term ‘abouts communication’
3 means a communication that contains a
4 reference to, but is not to or from, a target
5 of an acquisition authorized under sub-
6 section (a).

7 “(ii) The term ‘material breach’
8 means significant noncompliance with ap-
9 plicable law or an order of the Foreign In-
10 telligence Surveillance Court concerning
11 any acquisition of abouts communica-
12 tions.”.

13 (6) APPOINTMENT OF AMICI CURIAE BY FOR-
14 EIGN INTELLIGENCE SURVEILLANCE COURT.—For
15 purposes of section 103(i)(2)(A) of the Foreign In-
16 telligence Surveillance Act of 1978 (50 U.S.C.
17 1803(i)(2)(A)), the Foreign Intelligence Surveillance
18 Court shall treat the first certification under section
19 702(h) of such Act (50 U.S.C. 1881a(h)) or amend-
20 ment thereto that authorizes the acquisition of
21 abouts communications as presenting a novel or sig-
22 nificant interpretation of the law, unless the court
23 determines otherwise.

1 **SEC. 104. PUBLICATION OF MINIMIZATION PROCEDURES**
2 **UNDER SECTION 702.**

3 Section 702(e) (50 U.S.C. 1881a(e)) is amended by
4 adding at the end the following new paragraph:

5 “(3) PUBLICATION.—The Director of National
6 Intelligence, in consultation with the Attorney Gen-
7 eral, shall—

8 “(A) conduct a declassification review of
9 any minimization procedures adopted or amend-
10 ed in accordance with paragraph (1); and

11 “(B) consistent with such review, and not
12 later than 180 days after conducting such re-
13 view, make such minimization procedures pub-
14 licly available to the greatest extent practicable,
15 which may be in redacted form.”.

16 **SEC. 105. SECTION 705 EMERGENCY PROVISION.**

17 Section 705 (50 U.S.C. 1881d) is amended by adding
18 at the end the following:

19 “(c) EMERGENCY AUTHORIZATION.—

20 “(1) CONCURRENT AUTHORIZATION.—If the
21 Attorney General authorized the emergency employ-
22 ment of electronic surveillance or a physical search
23 pursuant to section 105 or 304, the Attorney Gen-
24 eral may authorize, for the effective period of the
25 emergency authorization and subsequent order pur-
26 suant to section 105 or 304, without a separate

1 order under section 703 or 704, the targeting of a
2 United States person subject to such emergency em-
3 ployment for the purpose of acquiring foreign intel-
4 ligence information while such United States person
5 is reasonably believed to be located outside the
6 United States.

7 “(2) USE OF INFORMATION.—If an application
8 submitted to the Court pursuant to section 104 or
9 303 is denied, or in any other case in which the ac-
10 quisition pursuant to paragraph (1) is terminated
11 and no order with respect to the target of the acqui-
12 sition is issued under section 105 or 304, all infor-
13 mation obtained or evidence derived from such ac-
14 quisition shall be handled in accordance with section
15 704(d)(4).”.

16 **SEC. 106. COMPENSATION OF AMICI CURIAE AND TECH-**
17 **NICAL EXPERTS.**

18 Subsection (i) of section 103 (50 U.S.C. 1803) is
19 amended by adding at the end the following:

20 “(11) COMPENSATION.—Notwithstanding any
21 other provision of law, a court established under
22 subsection (a) or (b) may compensate an amicus cu-
23 riae appointed under paragraph (2) for assistance
24 provided under such paragraph as the court con-

1 siders appropriate and at such rate as the court con-
2 siders appropriate.”.

3 **SEC. 107. ADDITIONAL REPORTING REQUIREMENTS.**

4 (a) ELECTRONIC SURVEILLANCE.—Section 107 (50
5 U.S.C. 1807) is amended to read as follows:

6 **“SEC. 107. REPORT OF ELECTRONIC SURVEILLANCE.**

7 “(a) ANNUAL REPORT.—In April of each year, the
8 Attorney General shall transmit to the Administrative Of-
9 fice of the United States Courts and to the congressional
10 intelligence committees and the Committees on the Judici-
11 ary of the House of Representatives and the Senate a re-
12 port setting forth with respect to the preceding calendar
13 year—

14 “(1) the total number of applications made for
15 orders and extensions of orders approving electronic
16 surveillance under this title;

17 “(2) the total number of such orders and exten-
18 sions either granted, modified, or denied; and

19 “(3) the total number of subjects targeted by
20 electronic surveillance conducted under an order or
21 emergency authorization under this title, rounded to
22 the nearest 500, including the number of such indi-
23 viduals who are United States persons, reported to
24 the nearest band of 500, starting with 0–499.

1 “(b) FORM.—Each report under subsection (a) shall
2 be submitted in unclassified form, to the extent consistent
3 with national security. Not later than 7 days after the date
4 on which the Attorney General submits each such report,
5 the Attorney General shall make the report publicly avail-
6 able, or, if the Attorney General determines that the re-
7 port cannot be made publicly available consistent with na-
8 tional security, the Attorney General may make publicly
9 available an unclassified summary of the report or a re-
10 dacted version of the report.”.

11 (b) PEN REGISTERS AND TRAP AND TRACE DE-
12 VICES.—Section 406 (50 U.S.C. 1846) is amended—

13 (1) in subsection (b)—

14 (A) in paragraph (4), by striking “; and”
15 and inserting a semicolon;

16 (B) in paragraph (5), by striking the pe-
17 riod at the end and inserting “; and”; and

18 (C) by adding at the end the following new
19 paragraph:

20 “(6) a good faith estimate of the total number
21 of subjects who were targeted by the installation and
22 use of a pen register or trap and trace device under
23 an order or emergency authorization issued under
24 this title, rounded to the nearest 500, including—

1 “(A) the number of such subjects who are
2 United States persons, reported to the nearest
3 band of 500, starting with 0–499; and

4 “(B) of the number of United States per-
5 sons described in subparagraph (A), the num-
6 ber of persons whose information acquired pur-
7 suant to such order was reviewed or accessed by
8 a Federal officer, employee, or agent, reported
9 to the nearest band of 500, starting with 0–
10 499.”; and

11 (2) by adding at the end the following new sub-
12 section:

13 “(c) Each report under subsection (b) shall be sub-
14 mitted in unclassified form, to the extent consistent with
15 national security. Not later than 7 days after the date on
16 which the Attorney General submits such a report, the At-
17 torney General shall make the report publicly available,
18 or, if the Attorney General determines that the report can-
19 not be made publicly available consistent with national se-
20 curity, the Attorney General may make publicly available
21 an unclassified summary of the report or a redacted
22 version of the report.”.

1 **SEC. 108. IMPROVEMENTS TO PRIVACY AND CIVIL LIB-**
2 **ERTIES OVERSIGHT BOARD.**

3 (a) APPOINTMENT OF STAFF.—Subsection (j) of sec-
4 tion 1061 of the Intelligence Reform and Terrorism Pre-
5 vention Act of 2004 (42 U.S.C. 2000ee(j)) is amended—

6 (1) by redesignating paragraphs (2) and (3) as
7 paragraphs (3) and (4), respectively; and

8 (2) by inserting after paragraph (1) the fol-
9 lowing new paragraph:

10 “(2) APPOINTMENT IN ABSENCE OF CHAIR-
11 MAN.—If the position of chairman of the Board is
12 vacant, during the period of the vacancy, the Board,
13 at the direction of the unanimous vote of the serving
14 members of the Board, may exercise the authority of
15 the chairman under paragraph (1).”.

16 (b) MEETINGS.—Subsection (f) of such section (42
17 U.S.C. 2000ee(f)) is amended—

18 (1) by striking “The Board shall” and inserting
19 “The Board”;

20 (2) in paragraph (1) by striking “make its” and
21 inserting “shall make its”; and

22 (3) in paragraph (2)—

23 (A) by striking “hold public” and inserting
24 “shall hold public”; and

25 (B) by inserting before the period at the
26 end the following: “, but may, notwithstanding

1 section 552b of title 5, United States Code,
2 meet or otherwise communicate in any number
3 to confer or deliberate in a manner that is
4 closed to the public”.

5 **SEC. 109. PRIVACY AND CIVIL LIBERTIES OFFICERS.**

6 Section 1062(a) of the Intelligence Reform and Ter-
7 rorism Prevention Act of 2004 (42 U.S.C. 2000ee–1(a))
8 is amended by inserting “, the Director of the National
9 Security Agency, the Director of the Federal Bureau of
10 Investigation” after “the Director of the Central Intel-
11 ligence Agency”.

12 **SEC. 110. WHISTLEBLOWER PROTECTIONS FOR CONTRAC-**
13 **TORS OF THE INTELLIGENCE COMMUNITY.**

14 (a) PROHIBITED PERSONNEL PRACTICES IN THE IN-
15 TELLIGENCE COMMUNITY.—Section 1104 of the National
16 Security Act of 1947 (50 U.S.C. 3234) is amended—

17 (1) in subsection (a)—

18 (A) in paragraph (3), by inserting “or a
19 contractor employee” after “character)”; and

20 (B) by adding at the end the following new
21 paragraph:

22 “(4) CONTRACTOR EMPLOYEE.—The term ‘con-
23 tractor employee’ means an employee of a con-
24 tractor, subcontractor, grantee, subgrantee, or per-

1 sonal services contractor, of a covered intelligence
2 community element.”;

3 (2) by redesignating subsections (c) and (d) as
4 subsections (d) and (e), respectively;

5 (3) by inserting after subsection (b) the fol-
6 lowing new subsection (c):

7 “(c) CONTRACTOR EMPLOYEES.—(1) Any employee
8 of a contractor, subcontractor, grantee, subgrantee, or
9 personal services contractor, of a covered intelligence com-
10 munity element who has authority to take, direct others
11 to take, recommend, or approve any personnel action, shall
12 not, with respect to such authority, take or fail to take
13 a personnel action with respect to any contractor employee
14 as a reprisal for a lawful disclosure of information by the
15 contractor employee to the Director of National Intel-
16 ligence (or an employee designated by the Director of Na-
17 tional Intelligence for such purpose), the Inspector Gen-
18 eral of the Intelligence Community, the head of the con-
19 tracting agency (or an employee designated by the head
20 of that agency for such purpose), the appropriate inspec-
21 tor general of the contracting agency, a congressional in-
22 telligence committee, or a member of a congressional intel-
23 ligence committee, which the contractor employee reason-
24 ably believes evidences—

1 “(A) a violation of any Federal law, rule, or
2 regulation (including with respect to evidence of an-
3 other employee or contractor employee accessing or
4 sharing classified information without authoriza-
5 tion); or

6 “(B) gross mismanagement, a gross waste of
7 funds, an abuse of authority, or a substantial and
8 specific danger to public health or safety.

9 “(2) A personnel action under paragraph (1) is pro-
10 hibited even if the action is undertaken at the request of
11 an agency official, unless the request takes the form of
12 a nondiscretionary directive and is within the authority of
13 the agency official making the request.”;

14 (4) in subsection (b), by striking the heading
15 and inserting “AGENCY EMPLOYEES.—”; and

16 (5) in subsection (e), as redesignated by para-
17 graph (2), by inserting “contractor employee,” after
18 “any employee,”.

19 (b) FEDERAL BUREAU OF INVESTIGATION.—

20 (1) IN GENERAL.—Any employee of a con-
21 tractor, subcontractor, grantee, subgrantee, or per-
22 sonal services contractor, of the Federal Bureau of
23 Investigation who has authority to take, direct oth-
24 ers to take, recommend, or approve any personnel
25 action, shall not, with respect to such authority, take

1 or fail to take a personnel action with respect to a
2 contractor employee as a reprisal for a disclosure of
3 information—

4 (A) made—

5 (i) to a supervisor in the direct chain
6 of command of the contractor employee;

7 (ii) to the Inspector General;

8 (iii) to the Office of Professional Re-
9 sponsibility of the Department of Justice;

10 (iv) to the Office of Professional Re-
11 sponsibility of the Federal Bureau of In-
12 vestigation;

13 (v) to the Inspection Division of the
14 Federal Bureau of Investigation;

15 (vi) to the Office of Special Counsel;

16 or

17 (vii) to an employee designated by any
18 officer, employee, office, or division de-
19 scribed in clauses (i) through (vii) for the
20 purpose of receiving such disclosures; and

21 (B) which the contractor employee reason-
22 ably believes evidences—

23 (i) any violation of any law, rule, or
24 regulation (including with respect to evi-
25 dence of another employee or contractor

1 employee accessing or sharing classified in-
2 formation without authorization); or

3 (ii) gross mismanagement, a gross
4 waste of funds, an abuse of authority, or
5 a substantial and specific danger to public
6 health or safety.

7 (2) ACTIONS BY REQUEST.—A personnel action
8 under paragraph (1) is prohibited even if the action
9 is undertaken at the request of an official of the
10 Federal Bureau of Investigation, unless the request
11 takes the form of a nondiscretionary directive and is
12 within the authority of the official making the re-
13 quest.

14 (3) REGULATIONS.—The Attorney General shall
15 prescribe regulations to ensure that a personnel ac-
16 tion described in paragraph (1) shall not be taken
17 against a contractor employee of the Federal Bureau
18 of Investigation as a reprisal for any disclosure of
19 information described in subparagraph (A) of such
20 paragraph.

21 (4) ENFORCEMENT.—The President shall pro-
22 vide for the enforcement of this subsection.

23 (5) DEFINITIONS.—In this subsection:

24 (A) The term “contractor employee”
25 means an employee of a contractor, subcon-

1 tractor, grantee, subgrantee, or personal serv-
2 ices contractor, of the Federal Bureau of Inves-
3 tigation.

4 (B) The term “personnel action” means
5 any action described in clauses (i) through (x)
6 of section 2302(a)(2)(A) of title 5, United
7 States Code, with respect to a contractor em-
8 ployee.

9 (c) RETALIATORY REVOCATION OF SECURITY
10 CLEARANCES AND ACCESS DETERMINATIONS.—Section
11 3001(j) of the Intelligence Reform and Terrorism Preven-
12 tion Act of 2004 (50 U.S.C. 3341(j)) is amended by add-
13 ing at the end the following new paragraph:

14 “(8) INCLUSION OF CONTRACTOR EMPLOY-
15 EES.—In this subsection, the term ‘employee’ in-
16 cludes an employee of a contractor, subcontractor,
17 grantee, subgrantee, or personal services contractor,
18 of an agency. With respect to such employees, the
19 term ‘employing agency’ shall be deemed to be the
20 contracting agency.”.

21 **SEC. 111. BRIEFING ON NOTIFICATION REQUIREMENTS.**

22 Not later than 180 days after the date of the enact-
23 ment of this Act, the Attorney General, in consultation
24 with the Director of National Intelligence, shall provide
25 to the Committee on the Judiciary and the Permanent Se-

1 lect Committee on Intelligence of the House of Represent-
2 atives and the Committee on the Judiciary and the Select
3 Committee on Intelligence of the Senate a briefing with
4 respect to how the Department of Justice interprets the
5 requirements under sections 106(c), 305(d), and 405(c)
6 of the Foreign Intelligence Surveillance Act of 1978 (50
7 U.S.C. 1806(c), 1825(d), and 1845(c)) to notify an ag-
8 grieved person under such sections of the use of informa-
9 tion obtained or derived from electronic surveillance, phys-
10 ical search, or the use of a pen register or trap and trace
11 device. The briefing shall focus on how the Department
12 interprets the phrase “obtained or derived from” in such
13 sections.

14 **SEC. 112. INSPECTOR GENERAL REPORT ON QUERIES CON-**
15 **DUCTED BY FEDERAL BUREAU OF INVES-**
16 **TIGATION.**

17 (a) REPORT.—Not later than 1 year after the date
18 on which the Foreign Intelligence Surveillance Court first
19 approves the querying procedures adopted pursuant to
20 section 702(f) of the Foreign Intelligence Surveillance Act
21 of 1978 (50 U.S.C. 1881a(f)), as added by section 101,
22 the Inspector General of the Department of Justice shall
23 submit to the Committee on the Judiciary and the Select
24 Committee on Intelligence of the Senate and the Com-
25 mittee on the Judiciary and the Permanent Select Com-

1 mittee on Intelligence of the House of Representatives a
2 report containing a review by the Inspector General of the
3 interpretation of, and compliance with, such procedures by
4 the Federal Bureau of Investigation.

5 (b) MATTERS INCLUDED.—The report under sub-
6 section (a) shall include, at a minimum, an assessment
7 of the following:

8 (1) The interpretations by the Federal Bureau
9 of Investigation and the National Security Division
10 of the Department of Justice, respectively, relating
11 to the querying procedures adopted under subsection
12 (f) of section 702 of the Foreign Intelligence Surveil-
13 lance Act of 1978 (50 U.S.C. 1881a(f)), as added by
14 section 101.

15 (2) The handling by the Federal Bureau of In-
16 vestigation of individuals whose citizenship status is
17 unknown at the time of a query conducted under
18 such section 702.

19 (3) The practice of the Federal Bureau of In-
20 vestigation with respect to retaining records of que-
21 ries conducted under such section 702 for auditing
22 purposes.

23 (4) The training or other processes of the Fed-
24 eral Bureau of Investigation to ensure compliance
25 with such querying procedures.

1 (5) The implementation of such querying proce-
2 dures with respect to queries conducted when evalu-
3 ating whether to open an assessment or predicated
4 investigation relating to the national security of the
5 United States.

6 (6) The scope of access by the criminal division
7 of the Federal Bureau of Investigation to informa-
8 tion obtained pursuant to the Foreign Intelligence
9 Surveillance Act of 1978 (50 U.S.C. 1801 et seq.),
10 including with respect to information acquired under
11 subsection (a) of such section 702 based on queries
12 conducted by the criminal division.

13 (7) The frequency and nature of the reviews
14 conducted by the National Security Division of the
15 Department of Justice and the Office of the Direc-
16 tor of National Intelligence relating to the compli-
17 ance by the Federal Bureau of Investigation with
18 such querying procedures.

19 (8) Any impediments, including operational,
20 technical, or policy impediments, for the Federal Bu-
21 reau of Investigation to count—

22 (A) the total number of queries where the
23 Federal Bureau of Investigation subsequently
24 accessed information acquired under subsection
25 (a) of such section 702;

1 (B) the total number of such queries that
2 used known United States person identifiers;
3 and

4 (C) the total number of queries for which
5 the Federal Bureau of Investigation received an
6 order of the Foreign Intelligence Surveillance
7 Court pursuant to subsection (f)(2) of such sec-
8 tion 702.

9 (c) FORM.—The report under subsection (a) shall be
10 submitted in unclassified form to the extent consistent
11 with national security, but may include a classified annex.

12 **TITLE II—EXTENSION OF AU-**
13 **THORITIES, INCREASED PEN-**
14 **ALTIES, REPORTS, AND**
15 **OTHER MATTERS**

16 **SEC. 201. EXTENSION OF TITLE VII OF FISA; EFFECTIVE**
17 **DATES.**

18 (a) EXTENSION.—Section 403(b) of the FISA
19 Amendments Act of 2008 (Public Law 110–261; 122 Stat.
20 2474) is amended—

21 (1) in paragraph (1)—

22 (A) by striking “December 31, 2017” and
23 inserting “December 31, 2023”; and

1 (B) by inserting “and by the FISA
2 Amendments Reauthorization Act of 2017”
3 after “section 101(a)”; and

4 (2) in paragraph (2) in the matter preceding
5 subparagraph (A), by striking “December 31, 2017”
6 and inserting “December 31, 2023”.

7 (b) CONFORMING AMENDMENTS.—Section 404(b) of
8 the FISA Amendments Act of 2008 (Public Law 110–261;
9 122 Stat. 2476), as amended by section 101, is further
10 amended—

11 (1) in paragraph (1)—

12 (A) in the heading, by striking “DECEM-
13 BER 31, 2017” and inserting “DECEMBER 31,
14 2023”; and

15 (B) by inserting “and by the FISA
16 Amendments Reauthorization Act of 2017”
17 after “section 101(a)”; and

18 (2) in paragraph (2), by inserting “and by the
19 FISA Amendments Reauthorization Act of 2017”
20 after “section 101(a)”; and

21 (3) in paragraph (4)—

22 (A) by inserting “and amended by the
23 FISA Amendments Reauthorization Act of
24 2017” after “as added by section 101(a)” both
25 places it appears; and

1 (B) by inserting “and by the FISA
2 Amendments Reauthorization Act of 2017”
3 after “as amended by section 101(a)” both
4 places it appears.

5 (c) EFFECTIVE DATE OF AMENDMENTS TO FAA.—
6 The amendments made to the FISA Amendments Act of
7 2008 (Public Law 110–261) by this section shall take ef-
8 fect on December 31, 2017.

9 **SEC. 202. INCREASED PENALTY FOR UNAUTHORIZED RE-**
10 **MOVAL AND RETENTION OF CLASSIFIED DOC-**
11 **UMENTS OR MATERIAL.**

12 Section 1924(a) of title 18, United States Code, is
13 amended by striking “one year” and inserting “five
14 years”.

15 **SEC. 203. REPORT ON CHALLENGES TO THE EFFECTIVE-**
16 **NESS OF FOREIGN INTELLIGENCE SURVEIL-**
17 **LANCE.**

18 (a) REPORT.—Not later than 270 days after the date
19 of the enactment of this Act, the Attorney General, in co-
20 ordination with the Director of National Intelligence, shall
21 submit to the Committee on the Judiciary and the Perma-
22 nent Select Committee on Intelligence of the House of
23 Representatives and the Committee on the Judiciary and
24 the Select Committee on Intelligence of the Senate a re-
25 port on current and future challenges to the effectiveness

1 of the foreign intelligence surveillance activities of the
2 United States authorized under the Foreign Intelligence
3 Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

4 (b) MATTERS INCLUDED.—The report under sub-
5 section (a) shall include, at a minimum, the following:

6 (1) A discussion of any trends that currently
7 challenge the effectiveness of the foreign intelligence
8 surveillance activities of the United States, or could
9 foreseeably challenge such activities during the dec-
10 ade following the date of the report, including with
11 respect to—

12 (A) the extraordinary and surging volume
13 of data occurring worldwide;

14 (B) the use of encryption;

15 (C) changes to worldwide telecommuni-
16 cations patterns or infrastructure;

17 (D) technical obstacles in determining the
18 location of data or persons;

19 (E) the increasing complexity of the legal
20 regime, including regarding requests for data in
21 the custody of foreign governments;

22 (F) the current and future ability of the
23 United States to obtain, on a compulsory or
24 voluntary basis, assistance from telecommuni-
25 cations providers or other entities; and

1 (G) any other matters the Attorney Gen-
2 eral and the Director of National Intelligence
3 determine appropriate.

4 (2) Recommendations for changes, including, as
5 appropriate, fundamental changes, to the foreign in-
6 telligence surveillance activities of the United States
7 to address the challenges identified under paragraph
8 (1) and to ensure the long-term effectiveness of such
9 activities.

10 (3) Recommendations for any changes to the
11 Foreign Intelligence Surveillance Act of 1978 (50
12 U.S.C. 1801 et seq.) that the Attorney General and
13 the Director of National Intelligence determine nec-
14 essary to address the challenges identified under
15 paragraph (1).

16 (c) FORM.—The report under subsection (a) may be
17 submitted in classified or unclassified form.

18 **SEC. 204. COMPTROLLER GENERAL STUDY ON THE CLASSI-**
19 **FICATION SYSTEM AND PROTECTION OF**
20 **CLASSIFIED INFORMATION.**

21 (a) STUDY.—The Comptroller General of the United
22 States shall conduct a study of the classification system
23 of the United States and the methods by which the intel-
24 ligence community (as defined in section 3(4) of the Na-

1 tional Security Act of 1947 (50 U.S.C. 3003(4))) protects
2 classified information.

3 (b) MATTERS INCLUDED.—The study under sub-
4 section (a) shall address the following:

5 (1) Whether sensitive information is properly
6 classified.

7 (2) The effect of modern technology on the
8 storage and protection of classified information, in-
9 cluding with respect to—

10 (A) using cloud storage for classified infor-
11 mation; and

12 (B) any technological means to prevent or
13 detect unauthorized access to such information.

14 (3) Any ways to improve the classification sys-
15 tem of the United States, including with respect to
16 changing the levels of classification used in such sys-
17 tem and to reduce overclassification.

18 (4) How to improve the authorized sharing of
19 classified information, including with respect to sen-
20 sitive compartmented information.

21 (5) The value of polygraph tests in determining
22 who is authorized to access classified information
23 and in investigating unauthorized disclosures of clas-
24 sified information.

1 (6) Whether each element of the intelligence
2 community—

3 (A) applies uniform standards in deter-
4 mining who is authorized to access classified in-
5 formation; and

6 (B) provides proper training with respect
7 to the handling of classified information and
8 the avoidance of overclassification.

9 (c) REPORT.—Not later than 180 days after the date
10 of the enactment of this Act, the Comptroller General shall
11 submit to the Committee on the Judiciary and the Perma-
12 nent Select Committee on Intelligence of the House of
13 Representatives and the Committee on the Judiciary and
14 the Select Committee on Intelligence of the Senate a re-
15 port containing the study under subsection (a).

16 (d) FORM.—The report under subsection (c) shall be
17 submitted in unclassified form, but may include a classi-
18 fied annex.

19 **SEC. 205. TECHNICAL AMENDMENTS AND AMENDMENTS TO**
20 **IMPROVE PROCEDURES OF THE FOREIGN IN-**
21 **TELLIGENCE SURVEILLANCE COURT OF RE-**
22 **VIEW.**

23 (a) TECHNICAL AMENDMENTS.—The Foreign Intel-
24 ligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.)
25 is amended as follows:

1 (1) In section 103(b) (50 U.S.C. 1803(b)), by
2 striking “designate as the” and inserting “des-
3 ignated as the”.

4 (2) In section 302(a)(1)(A)(iii) (50 U.S.C.
5 1822(a)(1)(A)(iii)), by striking “paragraphs (1)
6 through (4)” and inserting “subparagraphs (A)
7 through (D)”.

8 (3) In section 406(b) (50 U.S.C. 1846(b)), by
9 striking “and to the Committees on the Judiciary of
10 the House of Representatives and the Senate”.

11 (4) In section 604(a) (50 U.S.C. 1874(a))—

12 (A) in paragraph (1)(D), by striking “con-
13 tents” and inserting “contents,”; and

14 (B) in paragraph (3), by striking “comply
15 in the into” and inserting “comply into”.

16 (5) In section 701 (50 U.S.C. 1881)—

17 (A) in subsection (a), by striking “The
18 terms” and inserting “In this title, the terms”;
19 and

20 (B) in subsection (b)—

21 (i) by inserting “In this title:” after
22 the subsection heading; and

23 (ii) in paragraph (5), by striking “(50
24 U.S.C. 401a(4))” and inserting “(50
25 U.S.C. 3003(4))”.

1 (6) In section 702(h)(2)(A)(i) (50 U.S.C.
2 1881a(h)(2)(A)(i)), as redesignated by section 101,
3 by inserting “targeting” before “procedures in
4 place”.

5 (7) In section 801(7) (50 U.S.C. 1885(7)), by
6 striking “(50 U.S.C. 401a(4))” and inserting “(50
7 U.S.C. 3003(4))”.

8 (b) COURT-RELATED AMENDMENTS.—The Foreign
9 Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et
10 seq.) is further amended as follows:

11 (1) In section 103 (50 U.S.C. 1803)—

12 (A) in subsection (b), by striking “imme-
13 diately”; and

14 (B) in subsection (h), by striking “the
15 court established under subsection (a)” and in-
16 serting “a court established under this section”.

17 (2) In section 105(d) (50 U.S.C. 1805(d)), by
18 adding at the end the following new paragraph:

19 “(4) A denial of the application made under section
20 104 may be reviewed as provided in section 103.”.

21 (3) In section 302(d) (50 U.S.C. 1822(d)), by
22 striking “immediately”.

23 (4) In section 402(d) (50 U.S.C. 1842(d)), by
24 adding at the end the following new paragraph:

1 “(3) A denial of the application made under this sub-
2 section may be reviewed as provided in section 103.”.

3 (5) In section 403(c) (50 U.S.C. 1843(c)), by
4 adding at the end the following new paragraph:

5 “(3) A denial of the application made under sub-
6 section (a)(2) may be reviewed as provided in section
7 103.”.

8 (6) In section 501(c) (50 U.S.C. 1861(c)), by
9 adding at the end the following new paragraph:

10 “(4) A denial of the application made under
11 this subsection may be reviewed as provided in sec-
12 tion 103.”.

13 **SEC. 206. SEVERABILITY.**

14 If any provision of this Act, any amendment made
15 by this Act, or the application thereof to any person or
16 circumstances is held invalid, the validity of the remainder
17 of the Act, of any such amendments, and of the applica-
18 tion of such provisions to other persons and circumstances
19 shall not be affected thereby.

