

**AMENDMENT IN THE NATURE OF A SUBSTITUTE**  
**TO S. 139**  
**OFFERED BY M. \_\_\_\_\_**

Strike all after the enacting clause and insert the following:

**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.—

16 (1) IN GENERAL.—Section 702 (50 U.S.C.  
17 1881a) is amended—

18 (A) by redesignating subsections (f)  
19 through (l) as subsections (g) through (m), re-  
20 spectively; and

21 (B) by inserting after subsection (e) the  
22 following new subsection:

23 “(f) QUERIES.—

1 “(1) PROCEDURES REQUIRED.—

2 “(A) REQUIREMENT TO ADOPT.—The At-  
3 torney General, in consultation with the Direc-  
4 tor of National Intelligence, shall adopt  
5 querying procedures consistent with the require-  
6 ments of the fourth amendment to the Con-  
7 stitution of the United States for information  
8 collected pursuant to an authorization under  
9 subsection (a).

10 “(B) RECORD OF UNITED STATES PERSON  
11 QUERY TERMS.—The Attorney General, in con-  
12 sultation with the Director of National Intel-  
13 ligence, shall ensure that the procedures adopt-  
14 ed under subparagraph (A) include a technical  
15 procedure whereby a record is kept of each  
16 United States person query term used for a  
17 query.

18 “(C) JUDICIAL REVIEW.—The procedures  
19 adopted in accordance with subparagraph (A)  
20 shall be subject to judicial review pursuant to  
21 subsection (j).

22 “(2) ACCESS TO RESULTS OF CERTAIN QUERIES  
23 CONDUCTED BY FBI.—

24 “(A) COURT ORDER REQUIRED FOR FBI  
25 REVIEW OF CERTAIN QUERY RESULTS IN CRIMI-

1           NAL INVESTIGATIONS UNRELATED TO NA-  
2           TIONAL SECURITY.—Except as provided by sub-  
3           paragraph (E), in connection with a predicated  
4           criminal investigation opened by the Federal  
5           Bureau of Investigation that does not relate to  
6           the national security of the United States, the  
7           Federal Bureau of Investigation may not access  
8           the contents of communications acquired under  
9           subsection (a) that were retrieved pursuant to  
10          a query made using a United States person  
11          query term that was not designed to find and  
12          extract foreign intelligence information unless—

13                   “(i) the Federal Bureau of Investiga-  
14                   tion applies for an order of the Court  
15                   under subparagraph (C); and

16                   “(ii) the Court enters an order under  
17                   subparagraph (D) approving such applica-  
18                   tion.

19           “(B) JURISDICTION.—The Court shall  
20           have jurisdiction to review an application and to  
21           enter an order approving the access described  
22           in subparagraph (A).

23           “(C) APPLICATION.—Each application for  
24           an order under this paragraph shall be made by  
25           a Federal officer in writing upon oath or affir-

1 mation to a judge having jurisdiction under  
2 subparagraph (B). Each application shall re-  
3 quire the approval of the Attorney General  
4 based upon the finding of the Attorney General  
5 that the application satisfies the criteria and re-  
6 quirements of such application, as set forth in  
7 this paragraph, and shall include—

8 “(i) the identity of the Federal officer  
9 making the application; and

10 “(ii) an affidavit or other information  
11 containing a statement of the facts and  
12 circumstances relied upon by the applicant  
13 to justify the belief of the applicant that  
14 the contents of communications described  
15 in subparagraph (A) covered by the appli-  
16 cation would provide evidence of—

17 “(I) criminal activity;

18 “(II) contraband, fruits of a  
19 crime, or other items illegally pos-  
20 sessed by a third party; or

21 “(III) property designed for use,  
22 intended for use, or used in commit-  
23 ting a crime.

24 “(D) ORDER.—Upon an application made  
25 pursuant to subparagraph (C), the Court shall

1 enter an order approving the accessing of the  
2 contents of communications described in sub-  
3 paragraph (A) covered by the application if the  
4 Court finds probable cause to believe that such  
5 contents would provide any of the evidence de-  
6 scribed in subparagraph (C)(ii).

7 “(E) EXCEPTION.—The requirement for  
8 an order of the Court under subparagraph (A)  
9 to access the contents of communications de-  
10 scribed in such subparagraph shall not apply  
11 with respect to a query if the Federal Bureau  
12 of Investigation determines there is a reason-  
13 able belief that such contents could assist in  
14 mitigating or eliminating a threat to life or seri-  
15 ous bodily harm.

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

18 “(i) limiting the authority of the Fed-  
19 eral Bureau of Investigation to conduct  
20 lawful queries of information acquired  
21 under subsection (a);

22 “(ii) limiting the authority of the Fed-  
23 eral Bureau of Investigation to review,  
24 without a court order, the results of any  
25 query of information acquired under sub-

1 section (a) that was reasonably designed to  
2 find and extract foreign intelligence infor-  
3 mation, regardless of whether such foreign  
4 intelligence information could also be con-  
5 sidered evidence of a crime; or

6 “(iii) prohibiting or otherwise limiting  
7 the ability of the Federal Bureau of Inves-  
8 tigation to access the results of queries  
9 conducted when evaluating whether to  
10 open an assessment or predicated inves-  
11 tigation relating to the national security of  
12 the United States.

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

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

17 “(B) The term ‘query’ means the use of  
18 one or more terms to retrieve the unminimized  
19 contents or noncontents located in electronic  
20 and data storage systems of communications of  
21 or concerning United States persons obtained  
22 through acquisitions authorized under sub-  
23 section (a).”.

24 (2) APPLICATION.—Subsection (f) of section  
25 702 of the Foreign Intelligence Surveillance Act of

1       1978 (50 U.S.C. 1881a), as added by paragraph (1),  
2       shall apply with respect to certifications submitted  
3       under subsection (h) of such section to the Foreign  
4       Intelligence Surveillance Court after January 1,  
5       2018.

6       (b) CONFORMING AMENDMENTS.—

7             (1) AMENDMENTS TO SECTION 702 OF FISA.—

8       Such section 702 is further amended—

9             (A) in subsection (a), by striking “with  
10       subsection (i)(3)” and inserting “with sub-  
11       section (j)(3)”;

12            (B) in subsection (c)—

13             (i) in paragraph (1)(B), by striking  
14       “with subsection (g)” and inserting “with  
15       subsection (h)”;

16             (ii) in paragraph (2), by striking “to  
17       subsection (i)(3)” and inserting “to sub-  
18       section (j)(3)”;

19             (iii) in paragraph (3)—

20             (I) in subparagraph (A), by strik-  
21       ing “with subsection (g)” and insert-  
22       ing “with subsection (h)”;

23             (II) in subparagraph (B)—



1 (aa) by striking “to sub-  
2 section (i)(1)(C)” and inserting  
3 “to subsection (j)(1)(C)”; and

4 (bb) by striking “under sub-  
5 section (i)” and inserting “under  
6 subsection (j)”;

7 (C) in subsection (d)(2), by striking “to  
8 subsection (i)” and inserting “to subsection  
9 (j)”;

10 (D) in subsection (e)(2), by striking “to  
11 subsection (i)” and inserting “to subsection  
12 (j)”;

13 (E) in subsection (h), as redesignated by  
14 subsection (a)(1)—

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

18 (ii) in paragraph (3), by striking  
19 “with subsection (i)(1)(C)” and inserting  
20 “with subsection (j)(1)(C)”; and

21 (iii) in paragraph (6), by striking “to  
22 subsection (i)” and inserting “to sub-  
23 section (j)”;

24 (F) in subsection (j), as redesignated by  
25 subsection (a)(1)—

1 (i) in paragraph (1)—

2 (I) in subparagraph (A), by strik-  
3 ing “targeting and minimization pro-  
4 cedures adopted in accordance with  
5 subsections (d) and (e)” and inserting  
6 “targeting, minimization, and  
7 querying procedures adopted in ac-  
8 cordance with subsections (d), (e),  
9 and (f)(1)”;

10 (II) in subparagraph (B), by  
11 striking “targeting and minimization  
12 procedures adopted in accordance with  
13 subsections (d) and (e)” and inserting  
14 “targeting, minimization, and  
15 querying procedures adopted in ac-  
16 cordance with subsections (d), (e),  
17 and (f)(1)”;

18 (III) in subparagraph (C), by  
19 striking “targeting and minimization  
20 procedures adopted in accordance with  
21 subsections (d) and (e)” and inserting  
22 “targeting, minimization, and  
23 querying procedures adopted in ac-  
24 cordance with subsections (d), (e),  
25 and (f)(1)”;

1 (ii) in paragraph (2)—

2 (I) in subparagraph (A), by strik-  
3 ing “with subsection (g)” and insert-  
4 ing “with subsection (h)”; and

5 (II) by adding at the end the fol-  
6 lowing:

7 “(D) QUERYING PROCEDURES.—The  
8 querying procedures adopted in accordance with  
9 subsection (f)(1) to assess whether such proce-  
10 dures comply with the requirements of such  
11 subsection.”;

12 (iii) in paragraph (3)—

13 (I) in subparagraph (A)—

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

17 (bb) by striking “targeting  
18 and minimization procedures  
19 adopted in accordance with sub-  
20 sections (d) and (e)” and insert-  
21 ing “targeting, minimization, and  
22 querying procedures adopted in  
23 accordance with subsections (d),  
24 (e), and (f)(1)”; and

1 (II) in subparagraph (B), in the  
2 matter before clause (i)—

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

6 (bb) by striking “with sub-  
7 sections (d) and (e)” and insert-  
8 ing “with subsections (d), (e),  
9 and (f)(1)”;

10 (iv) in paragraph (5)(A)—

11 (I) by striking “with subsection  
12 (g)” and inserting “with subsection  
13 (h)”;

14 (II) by striking “with subsections  
15 (d) and (e)” and inserting “with sub-  
16 sections (d), (e), and (f)(1)”;

17 (G) in subsection (m), as redesignated by  
18 subsection (a)(1)—

19 (i) in paragraph (1), in the matter be-  
20 fore subparagraph (A)—

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

1 adopted in accordance with sub-  
2 sections (d), (e), and (f)(1)”; and

3 (II) by striking “with subsection  
4 (f)” and inserting “with subsection  
5 (g)”; and

6 (ii) in paragraph (2)(A)—

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

14 (II) by striking “with subsection  
15 (f)” and inserting “with subsection  
16 (g)”.

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

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

22 (B) by striking “section 702(g)” each  
23 place it appears and inserting “section 702(h)”; and

24 and

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

4 (3) AMENDMENTS TO FISA AMENDMENTS ACT  
5 OF 2008.—Section 404 of the Foreign Intelligence  
6 Surveillance Act of 1978 Amendments Act of 2008  
7 (Public Law 110–261; 50 U.S.C. 1801 note) is  
8 amended—

9 (A) in subsection (a)(7)(B)—

10 (i) by striking “under section  
11 702(i)(3)” and inserting “under section  
12 702(j)(3)”; and

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

15 (B) in subsection (b)—

16 (i) in paragraph (3)—

17 (I) in subparagraph (A), by strik-  
18 ing “to section 702(h)” and inserting  
19 “to section 702(i)”; and

20 (II) in subparagraph (B)—

21 (aa) by striking “section  
22 702(h)(3) of” and inserting “sec-  
23 tion 702(i)(3) of”; and

1 (bb) by striking “to section  
2 702(h)” and inserting “to section  
3 702(i)”; and  
4 (ii) in paragraph (4)—  
5 (I) in subparagraph (A), by strik-  
6 ing “and sections 702(l)” and insert-  
7 ing “and sections 702(m)”; and  
8 (II) in subparagraph (B)(iv), by  
9 striking “or section 702(l)” and in-  
10 serting “or section 702(m)”.

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

12 (a) **END USE RESTRICTION.**—Section 706(a) (50  
13 U.S.C. 1881e(a)) is amended—

14 (1) by striking “Information acquired” and in-  
15 serting the following:

16 “(1) **IN GENERAL.**—Information acquired”; and

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

18 “(2) **UNITED STATES PERSONS.**—

19 “(A) **IN GENERAL.**—Any information con-  
20 cerning a United States person acquired under  
21 section 702 shall not be used in evidence  
22 against that United States person pursuant to  
23 paragraph (1) in any criminal proceeding un-  
24 less—

1           “(i) the Federal Bureau of Investiga-  
2           tion obtained an order of the Foreign In-  
3           telligence Surveillance Court to access such  
4           information pursuant to section 702(f)(2);  
5           or

6           “(ii) the Attorney General determines  
7           that—

8                   “(I) the criminal proceeding af-  
9                   fects, involves, or is related to the na-  
10                  tional security of the United States;  
11                  or

12                   “(II) the criminal proceeding in-  
13                  volves—

14                           “(aa) death;

15                           “(bb) kidnapping;

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

19                           “(dd) conduct that con-  
20                   stitutes a criminal offense that is  
21                   a specified offense against a  
22                   minor, as defined in section 111  
23                   of the Adam Walsh Child Protec-  
24                   tion and Safety Act of 2006 (34  
25                   U.S.C. 20911);



1           “(ee) incapacitation or de-  
2           struction of critical infrastruc-  
3           ture, as defined in section  
4           1016(e) of the USA PATRIOT  
5           Act (42 U.S.C. 5195c(e));

6           “(ff) cybersecurity, including  
7           conduct described in section  
8           1016(e) of the USA PATRIOT  
9           Act (42 U.S.C. 5195c(e)) or sec-  
10          tion 1029, 1030, or 2511 of title  
11          18, United States Code;

12          “(gg) transnational crime,  
13          including transnational narcotics  
14          trafficking and transnational or-  
15          ganized crime; or

16          “(hh) human trafficking.

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

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

22                 (1) in subsection (b)—

23                         (A) in paragraph (1), by striking “good  
24                         faith estimate of the number of targets of such

1 orders;” and inserting the following: “good faith  
2 estimate of—

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

4 “(B) the number of targets of such orders  
5 who are known to not be United States persons;  
6 and

7 “(C) the number of targets of such orders  
8 who are known to be United States persons;”;  
9 (B) in paragraph (2)—

10 (i) in the matter preceding subpara-  
11 graph (A), by inserting “, including pursu-  
12 ant to subsection (f)(2) of such section,”  
13 after “section 702”;

14 (ii) by redesignating subparagraphs  
15 (A) and (B) as subparagraphs (B) and  
16 (C), respectively;

17 (iii) by inserting before subparagraph  
18 (B), as so redesignated, the following:

19 “(A) the number of targets of such or-  
20 ders;”;

21 (iv) in subparagraph (B), as so redesi-  
22 gnated, by striking “and” at the end; and

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

24 “(D) the number of instances in which the  
25 Federal Bureau of Investigation opened, under

1 the Criminal Investigative Division or any suc-  
2 cessor division, an investigation of a United  
3 States person (who is not considered a threat to  
4 national security) based wholly or in part on an  
5 acquisition authorized under such section;”;

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

9 “(i) the number of targets of such or-  
10 ders who are known to not be United  
11 States persons; and

12 “(ii) the number of targets of such or-  
13 ders who are known to be United States  
14 persons; and”;

15 (D) by redesignating paragraphs (4), (5),  
16 and (6) as paragraphs (5), (6), and (7), respec-  
17 tively; and

18 (E) by inserting after paragraph (3) the  
19 following:

20 “(4) the number of criminal proceedings in  
21 which the United States or a State or political sub-  
22 division thereof provided notice pursuant to sub-  
23 section (c) or (d) of section 106 (including with re-  
24 spect to information acquired from an acquisition  
25 conducted under section 702) or subsection (d) or

1 (e) of section 305 of the intent of the government  
2 to enter into evidence or otherwise use or disclose  
3 any information obtained or derived from electronic  
4 surveillance, physical search, or an acquisition con-  
5 ducted pursuant to this Act;” and

6 (2) in subsection (d)—

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

9 (B) in paragraph (2)(A)—

10 (i) by striking “Paragraphs (2)(A),  
11 (2)(B), and (5)(C)” and inserting “Para-  
12 graphs (2)(B), (2)(C), and (6)(C)” and

13 (ii) by inserting before the period at  
14 the end the following: “, except with re-  
15 spect to information required under para-  
16 graph (2) relating to orders issued under  
17 section 702(f)(2)” and

18 (C) in paragraph (3)(A), in the matter  
19 preceding clause (i), by striking “subsection  
20 (b)(2)(B)” and inserting “subsection  
21 (b)(2)(C)”.

22 **SEC. 103. CONGRESSIONAL REVIEW AND OVERSIGHT OF**  
23 **ABOUTS COLLECTION.**

24 (a) IN GENERAL.—Section 702(b) (50 U.S.C.  
25 1881a(b)) is amended—

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

3 (2) by redesignating paragraph (5) as para-  
4 graph (6); and

5 (3) by inserting after paragraph (4) the fol-  
6 lowing:

7 “(5) may not intentionally acquire communica-  
8 tions that contain a reference to, but are not to or  
9 from, a target of an acquisition authorized under  
10 subsection (a), except as provided under section  
11 103(b) of the FISA Amendments Reauthorization  
12 Act of 2017; and”.

13 (b) CONGRESSIONAL REVIEW AND OVERSIGHT OF  
14 ABOUTS COLLECTION.—

15 (1) DEFINITIONS.—In this subsection:

16 (A) The term “abouts communication”  
17 means a communication that contains a ref-  
18 erence to, but is not to or from, a target of an  
19 acquisition authorized under section 702(a) of  
20 the Foreign Intelligence Surveillance Act of  
21 1978 (50 U.S.C. 1881a(a)).

22 (B) The term “material breach” means  
23 significant noncompliance with applicable law or  
24 an order of the Foreign Intelligence Surveil-

1 lance Court concerning any acquisition of  
2 abouts communications.

3 (2) SUBMISSION TO CONGRESS.—

4 (A) REQUIREMENT.—Notwithstanding any  
5 other provision of law, and except as provided  
6 in paragraph (4), if the Attorney General and  
7 the Director of National Intelligence intend to  
8 implement the authorization of the intentional  
9 acquisition of abouts communications, before  
10 the first such implementation after the date of  
11 enactment of this Act, the Attorney General  
12 and the Director of National Intelligence shall  
13 submit to the Committee on the Judiciary and  
14 the Select Committee on Intelligence of the  
15 Senate and the Committee on the Judiciary and  
16 the Permanent Select Committee on Intelligence  
17 of the House of Representatives a written no-  
18 tice of the intent to implement the authoriza-  
19 tion of such an acquisition, and any supporting  
20 materials in accordance with this subsection.

21 (B) CONGRESSIONAL REVIEW PERIOD.—

22 During the 30-day period beginning on the date  
23 written notice is submitted under subparagraph  
24 (A), the Committee on the Judiciary and the  
25 Select Committee on Intelligence of the Senate

1 and the Committee on the Judiciary and the  
2 Permanent Select Committee on Intelligence of  
3 the House of Representatives shall, as appro-  
4 priate, hold hearings and briefings and other-  
5 wise obtain information in order to fully review  
6 the written notice.

7 (C) LIMITATION ON ACTION DURING CON-  
8 GRESSIONAL REVIEW PERIOD.—Notwith-  
9 standing any other provision of law, and subject  
10 to paragraph (4), unless the Attorney General  
11 and the Director of National Intelligence make  
12 a determination pursuant to section 702(c)(2)  
13 of the Foreign Intelligence Surveillance Act of  
14 1978 (50 U.S.C. 1881a(c)(2)), the Attorney  
15 General and the Director of National Intel-  
16 ligence may not implement the authorization of  
17 the intentional acquisition of abouts commu-  
18 nications before the end of the period described  
19 in subparagraph (B).

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

22 (A) A copy of any certification submitted  
23 to the Foreign Intelligence Surveillance Court  
24 pursuant to section 702 of the Foreign Intel-  
25 ligence Surveillance Act of 1978 (50 U.S.C.

1 1881a), or amendment thereto, authorizing the  
2 intentional acquisition of abouts communica-  
3 tions, including all affidavits, procedures, exhib-  
4 its, and attachments submitted therewith.

5 (B) The decision, order, or opinion of the  
6 Foreign Intelligence Surveillance Court approv-  
7 ing such certification, and any pleadings, appli-  
8 cations, or memoranda of law associated with  
9 such decision, order, or opinion.

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

12 (D) Data or other results of modeling, sim-  
13 ulation, or auditing of sample data dem-  
14 onstrating that any acquisition method involv-  
15 ing the intentional acquisition of abouts com-  
16 munications shall be conducted in accordance  
17 with title VII of the Foreign Intelligence Sur-  
18 veillance Act of 1978 (50 U.S.C. 1881 et seq.),  
19 if such data or other results exist at the time  
20 the written notice is submitted and were pro-  
21 vided to the Foreign Intelligence Surveillance  
22 Court.

23 (E) Except as provided under paragraph  
24 (4), a statement that no acquisition authorized  
25 under subsection (a) of such section 702 shall



1 include the intentional acquisition of an abouts  
2 communication until after the end of the 30-day  
3 period described in paragraph (2)(B).

4 (4) EXCEPTION FOR EMERGENCY ACQUI-  
5 TION.—

6 (A) NOTICE OF DETERMINATION.—If the  
7 Attorney General and the Director of National  
8 Intelligence make a determination pursuant to  
9 section 702(c)(2) of the Foreign Intelligence  
10 Surveillance Act of 1978 (50 U.S.C.  
11 1881a(c)(2)) with respect to the intentional ac-  
12 quisition of abouts communications, the Attor-  
13 ney General and the Director of National Intel-  
14 ligence shall notify the Committee on the Judi-  
15 ciary and the Select Committee on Intelligence  
16 of the Senate and the Committee on the Judici-  
17 ary and the Permanent Select Committee on  
18 Intelligence of the House of Representatives as  
19 soon as practicable, but not later than 7 days  
20 after the determination is made.

21 (B) IMPLEMENTATION OR CONTINU-  
22 ATION.—

23 (i) IN GENERAL.—If the Foreign In-  
24 telligence Surveillance Court approves a  
25 certification that authorizes the intentional

1 acquisition of abouts communications be-  
2 fore the end of the 30-day period described  
3 in paragraph (2)(B), the Attorney General  
4 and the Director of National Intelligence  
5 may authorize the immediate implementa-  
6 tion or continuation of that certification if  
7 the Attorney General and the Director of  
8 National Intelligence jointly determine that  
9 exigent circumstances exist such that with-  
10 out such immediate implementation or con-  
11 tinuation intelligence important to the na-  
12 tional security of the United States may be  
13 lost or not timely acquired.

14 (ii) NOTICE.—The Attorney General  
15 and the Director of National Intelligence  
16 shall submit to the Committee on the Judi-  
17 ciary and the Select Committee on Intel-  
18 ligence of the Senate and the Committee  
19 on the Judiciary and the Permanent Select  
20 Committee on Intelligence of the House of  
21 Representatives notification of a deter-  
22 mination pursuant to clause (i) as soon as  
23 practicable, but not later than 3 days after  
24 the determination is made.

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

4                   (A) in the heading by striking “AND RE-  
5                   VIEWS” and inserting “REVIEWS, AND REPORT-  
6                   ING”; and

7                   (B) by adding at the end the following new  
8                   paragraph:

9           “(4) REPORTING OF MATERIAL BREACH.—

10                   “(A) IN GENERAL.—The head of each ele-  
11                   ment of the intelligence community involved in  
12                   the acquisition of abouts communications shall  
13                   fully and currently inform the Committees on  
14                   the Judiciary of the House of Representatives  
15                   and the Senate and the congressional intel-  
16                   ligence committees of a material breach.

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

18                           “(i) The term ‘abouts communication’  
19                           means a communication that contains a  
20                           reference to, but is not to or from, a target  
21                           of an acquisition authorized under sub-  
22                           section (a).

23                           “(ii) The term ‘material breach’  
24                           means significant noncompliance with ap-  
25                           plicable law or an order of the Foreign In-

1 intelligence Surveillance Court concerning  
2 any acquisition of abouts communica-  
3 tions.”.

4 (6) APPOINTMENT OF AMICI CURIAE BY FOR-  
5 EIGN INTELLIGENCE SURVEILLANCE COURT.—For  
6 purposes of section 103(i)(2)(A) of the Foreign In-  
7 telligence Surveillance Act of 1978 (50 U.S.C.  
8 1803(i)(2)(A)), the Foreign Intelligence Surveillance  
9 Court shall treat the first certification under section  
10 702(h) of such Act (50 U.S.C. 1881a(h)) or amend-  
11 ment thereto that authorizes the acquisition of  
12 abouts communications as presenting a novel or sig-  
13 nificant interpretation of the law, unless the court  
14 determines otherwise.

15 **SEC. 104. PUBLICATION OF MINIMIZATION PROCEDURES**  
16 **UNDER SECTION 702.**

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

19 “(3) PUBLICATION.—The Director of National  
20 Intelligence, in consultation with the Attorney Gen-  
21 eral, shall—

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

1           “(B) consistent with such review, and not  
2           later than 180 days after conducting such re-  
3           view, make such minimization procedures pub-  
4           licly available to the greatest extent practicable,  
5           which may be in redacted form.”.

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

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

9           “(c) EMERGENCY AUTHORIZATION.—

10           “(1) CONCURRENT AUTHORIZATION.—If the  
11           Attorney General authorized the emergency employ-  
12           ment of electronic surveillance or a physical search  
13           pursuant to section 105 or 304, the Attorney Gen-  
14           eral may authorize, for the effective period of the  
15           emergency authorization and subsequent order pur-  
16           suant to section 105 or 304, without a separate  
17           order under section 703 or 704, the targeting of a  
18           United States person subject to such emergency em-  
19           ployment for the purpose of acquiring foreign intel-  
20           ligence information while such United States person  
21           is reasonably believed to be located outside the  
22           United States.

23           “(2) USE OF INFORMATION.—If an application  
24           submitted to the Court pursuant to section 104 or  
25           303 is denied, or in any other case in which the ac-



1 ary of the House of Representatives and the Senate a re-  
2 port setting forth with respect to the preceding calendar  
3 year—

4           “(1) the total number of applications made for  
5 orders and extensions of orders approving electronic  
6 surveillance under this title;

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

9           “(3) the total number of subjects targeted by  
10 electronic surveillance conducted under an order or  
11 emergency authorization under this title, rounded to  
12 the nearest 500, including the number of such indi-  
13 viduals who are United States persons, reported to  
14 the nearest band of 500, starting with 0–499.

15           “(b) FORM.—Each report under subsection (a) shall  
16 be submitted in unclassified form, to the extent consistent  
17 with national security. Not later than 7 days after the date  
18 on which the Attorney General submits each such report,  
19 the Attorney General shall make the report publicly avail-  
20 able, or, if the Attorney General determines that the re-  
21 port cannot be made publicly available consistent with na-  
22 tional security, the Attorney General may make publicly  
23 available an unclassified summary of the report or a re-  
24 dacted version of the report.”.

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

3 (1) in subsection (b)—

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

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

8 (C) by adding at the end the following new  
9 paragraph:

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

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

18 “(B) of the number of United States per-  
19 sons described in subparagraph (A), the num-  
20 ber of persons whose information acquired pur-  
21 suant to such order was reviewed or accessed by  
22 a Federal officer, employee, or agent, reported  
23 to the nearest band of 500, starting with 0–  
24 499.”; and



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

3           “(c) Each report under subsection (b) shall be sub-  
4           mitted in unclassified form, to the extent consistent with  
5           national security. Not later than 7 days after the date on  
6           which the Attorney General submits such a report, the At-  
7           torney General shall make the report publicly available,  
8           or, if the Attorney General determines that the report can-  
9           not be made publicly available consistent with national se-  
10          curity, the Attorney General may make publicly available  
11          an unclassified summary of the report or a redacted  
12          version of the report.”.

13       **SEC. 108. IMPROVEMENTS TO PRIVACY AND CIVIL LIB-**  
14                               **ERTIES OVERSIGHT BOARD.**

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

18               (1) by redesignating paragraphs (2) and (3) as  
19               paragraphs (3) and (4), respectively; and

20               (2) by inserting after paragraph (1) the fol-  
21          lowing new paragraph:

22               “(2) APPOINTMENT IN ABSENCE OF CHAIR-  
23          MAN.—If the position of chairman of the Board is  
24          vacant, during the period of the vacancy, the Board,  
25          at the direction of the unanimous vote of the serving

1 members of the Board, may exercise the authority of  
2 the chairman under paragraph (1).”.

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

5 (1) by striking “The Board shall” and inserting  
6 “The Board”;

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

9 (3) in paragraph (2)—

10 (A) by striking “hold public” and inserting  
11 “shall hold public”; and

12 (B) by inserting before the period at the  
13 end the following: “, but may, notwithstanding  
14 section 552b of title 5, United States Code,  
15 meet or otherwise communicate in any number  
16 to confer or deliberate in a manner that is  
17 closed to the public”.

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

19 Section 1062(a) of the Intelligence Reform and Ter-  
20 rorism Prevention Act of 2004 (42 U.S.C. 2000ee–1(a))  
21 is amended by inserting “, the Director of the National  
22 Security Agency, the Director of the Federal Bureau of  
23 Investigation” after “the Director of the Central Intel-  
24 ligence Agency”.

1 **SEC. 110. WHISTLEBLOWER PROTECTIONS FOR CONTRAC-**  
2 **TORS OF THE INTELLIGENCE COMMUNITY.**

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

6 (1) in subsection (a)—

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

9 (B) by adding at the end the following new  
10 paragraph:

11 “(4) CONTRACTOR EMPLOYEE.—The term ‘con-  
12 tractor employee’ means an employee of a con-  
13 tractor, subcontractor, grantee, subgrantee, or per-  
14 sonal services contractor, of a covered intelligence  
15 community element.”;

16 (2) by redesignating subsections (c) and (d) as  
17 subsections (d) and (e), respectively;

18 (3) by inserting after subsection (b) the fol-  
19 lowing new subsection (c):

20 “(c) CONTRACTOR EMPLOYEES.—(1) Any employee  
21 of a contractor, subcontractor, grantee, subgrantee, or  
22 personal services contractor, of a covered intelligence com-  
23 munity element who has authority to take, direct others  
24 to take, recommend, or approve any personnel action, shall  
25 not, with respect to such authority, take or fail to take  
26 a personnel action with respect to any contractor employee

1 as a reprisal for a lawful disclosure of information by the  
2 contractor employee to the Director of National Intel-  
3 ligence (or an employee designated by the Director of Na-  
4 tional Intelligence for such purpose), the Inspector Gen-  
5 eral of the Intelligence Community, the head of the con-  
6 tracting agency (or an employee designated by the head  
7 of that agency for such purpose), the appropriate inspec-  
8 tor general of the contracting agency, a congressional in-  
9 telligence committee, or a member of a congressional intel-  
10 ligence committee, which the contractor employee reason-  
11 ably believes evidences—

12           “(A) a violation of any Federal law, rule, or  
13           regulation (including with respect to evidence of an-  
14           other employee or contractor employee accessing or  
15           sharing classified information without authoriza-  
16           tion); or

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

20           “(2) A personnel action under paragraph (1) is pro-  
21           hibited even if the action is undertaken at the request of  
22           an agency official, unless the request takes the form of  
23           a nondiscretionary directive and is within the authority of  
24           the agency official making the request.”;

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

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

6           (b) FEDERAL BUREAU OF INVESTIGATION.—

7           (1) IN GENERAL.—Any employee of a con-  
8 tractor, subcontractor, grantee, subgrantee, or per-  
9 sonal services contractor, of the Federal Bureau of  
10 Investigation who has authority to take, direct oth-  
11 ers to take, recommend, or approve any personnel  
12 action, shall not, with respect to such authority, take  
13 or fail to take a personnel action with respect to a  
14 contractor employee as a reprisal for a disclosure of  
15 information—

16                   (A) made—

17                           (i) to a supervisor in the direct chain  
18 of command of the contractor employee;

19                           (ii) to the Inspector General;

20                           (iii) to the Office of Professional Re-  
21 sponsibility of the Department of Justice;

22                           (iv) to the Office of Professional Re-  
23 sponsibility of the Federal Bureau of In-  
24 vestigation;

1 (v) to the Inspection Division of the  
2 Federal Bureau of Investigation;

3 (vi) to the Office of Special Counsel;

4 or

5 (vii) to an employee designated by any  
6 officer, employee, office, or division de-  
7 scribed in clauses (i) through (vii) for the  
8 purpose of receiving such disclosures; and  
9 (B) which the contractor employee reason-  
10 ably believes evidences—

11 (i) any violation of any law, rule, or  
12 regulation (including with respect to evi-  
13 dence of another employee or contractor  
14 employee accessing or sharing classified in-  
15 formation without authorization); or

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

20 (2) ACTIONS BY REQUEST.—A personnel action  
21 under paragraph (1) is prohibited even if the action  
22 is undertaken at the request of an official of the  
23 Federal Bureau of Investigation, unless the request  
24 takes the form of a nondiscretionary directive and is

1 within the authority of the official making the re-  
2 quest.

3 (3) REGULATIONS.—The Attorney General shall  
4 prescribe regulations to ensure that a personnel ac-  
5 tion described in paragraph (1) shall not be taken  
6 against a contractor employee of the Federal Bureau  
7 of Investigation as a reprisal for any disclosure of  
8 information described in subparagraph (A) of such  
9 paragraph.

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

12 (5) DEFINITIONS.—In this subsection:

13 (A) The term “contractor employee”  
14 means an employee of a contractor, subcon-  
15 tractor, grantee, subgrantee, or personal serv-  
16 ices contractor, of the Federal Bureau of Inves-  
17 tigation.

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

23 (c) RETALIATORY REVOCATION OF SECURITY  
24 CLEARANCES AND ACCESS DETERMINATIONS.—Section  
25 3001(j) of the Intelligence Reform and Terrorism Preven-

1 tion Act of 2004 (50 U.S.C. 3341(j)) is amended by add-  
2 ing at the end the following new paragraph:

3           “(8) INCLUSION OF CONTRACTOR EMPLOY-  
4 EES.—In this subsection, the term ‘employee’ in-  
5 cludes an employee of a contractor, subcontractor,  
6 grantee, subgrantee, or personal services contractor,  
7 of an agency. With respect to such employees, the  
8 term ‘employing agency’ shall be deemed to be the  
9 contracting agency.”.

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

11       Not later than 180 days after the date of the enact-  
12 ment of this Act, the Attorney General, in consultation  
13 with the Director of National Intelligence, shall provide  
14 to the Committee on the Judiciary and the Permanent Se-  
15 lect Committee on Intelligence of the House of Represent-  
16 atives and the Committee on the Judiciary and the Select  
17 Committee on Intelligence of the Senate a briefing with  
18 respect to how the Department of Justice interprets the  
19 requirements under sections 106(e), 305(d), and 405(c)  
20 of the Foreign Intelligence Surveillance Act of 1978 (50  
21 U.S.C. 1806(e), 1825(d), and 1845(e)) to notify an ag-  
22 grieved person under such sections of the use of informa-  
23 tion obtained or derived from electronic surveillance, phys-  
24 ical search, or the use of a pen register or trap and trace  
25 device. The briefing shall focus on how the Department



1 interprets the phrase “obtained or derived from” in such  
2 sections.

3 **SEC. 112. INSPECTOR GENERAL REPORT ON QUERIES CON-**  
4 **DUCTED BY FEDERAL BUREAU OF INVES-**  
5 **TIGATION.**

6 (a) REPORT.—Not later than 1 year after the date  
7 on which the Foreign Intelligence Surveillance Court first  
8 approves the querying procedures adopted pursuant to  
9 section 702(f) of the Foreign Intelligence Surveillance Act  
10 of 1978 (50 U.S.C. 1881a(f)), as added by section 101,  
11 the Inspector General of the Department of Justice shall  
12 submit to the Committee on the Judiciary and the Select  
13 Committee on Intelligence of the Senate and the Com-  
14 mittee on the Judiciary and the Permanent Select Com-  
15 mittee on Intelligence of the House of Representatives a  
16 report containing a review by the Inspector General of the  
17 interpretation of, and compliance with, such procedures by  
18 the Federal Bureau of Investigation.

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

22 (1) The interpretations by the Federal Bureau  
23 of Investigation and the National Security Division  
24 of the Department of Justice, respectively, relating  
25 to the querying procedures adopted under subsection

1 (f) of section 702 of the Foreign Intelligence Surveil-  
2 lance Act of 1978 (50 U.S.C. 1881a(f)), as added by  
3 section 101.

4 (2) The handling by the Federal Bureau of In-  
5 vestigation of individuals whose citizenship status is  
6 unknown at the time of a query conducted under  
7 such section 702.

8 (3) The practice of the Federal Bureau of In-  
9 vestigation with respect to retaining records of que-  
10 ries conducted under such section 702 for auditing  
11 purposes.

12 (4) The training or other processes of the Fed-  
13 eral Bureau of Investigation to ensure compliance  
14 with such querying procedures.

15 (5) The implementation of such querying proce-  
16 dures with respect to queries conducted when evalu-  
17 ating whether to open an assessment or predicated  
18 investigation relating to the national security of the  
19 United States.

20 (6) The scope of access by the criminal division  
21 of the Federal Bureau of Investigation to informa-  
22 tion obtained pursuant to the Foreign Intelligence  
23 Surveillance Act of 1978 (50 U.S.C. 1801 et seq.),  
24 including with respect to information acquired under

1 subsection (a) of such section 702 based on queries  
2 conducted by the criminal division.

3 (7) The frequency and nature of the reviews  
4 conducted by the National Security Division of the  
5 Department of Justice and the Office of the Direc-  
6 tor of National Intelligence relating to the compli-  
7 ance by the Federal Bureau of Investigation with  
8 such querying procedures.

9 (8) Any impediments, including operational,  
10 technical, or policy impediments, for the Federal Bu-  
11 reau of Investigation to count—

12 (A) the total number of queries where the  
13 Federal Bureau of Investigation subsequently  
14 accessed information acquired under subsection  
15 (a) of such section 702;

16 (B) the total number of such queries that  
17 used known United States person identifiers;  
18 and

19 (C) the total number of queries for which  
20 the Federal Bureau of Investigation received an  
21 order of the Foreign Intelligence Surveillance  
22 Court pursuant to subsection (f)(2) of such sec-  
23 tion 702.

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

4 **TITLE II—EXTENSION OF AU-**  
5 **THORITIES, INCREASED PEN-**  
6 **ALTIES, REPORTS, AND**  
7 **OTHER MATTERS**

8 **SEC. 201. EXTENSION OF TITLE VII OF FISA; EFFECTIVE**  
9 **DATES.**

10 (a) EXTENSION.—Section 403(b) of the FISA  
11 Amendments Act of 2008 (Public Law 110–261; 122 Stat.  
12 2474) is amended—

13 (1) in paragraph (1)—

14 (A) by striking “December 31, 2017” and  
15 inserting “December 31, 2023”; and

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

19 (2) in paragraph (2) in the matter preceding  
20 subparagraph (A), by striking “December 31, 2017”  
21 and inserting “December 31, 2023”.

22 (b) CONFORMING AMENDMENTS.—Section 404(b) of  
23 the FISA Amendments Act of 2008 (Public Law 110–261;  
24 122 Stat. 2476), as amended by section 101, is further  
25 amended—

1 (1) in paragraph (1)—

2 (A) in the heading, by striking “DECEM-  
3 BER 31, 2017” and inserting “DECEMBER 31,  
4 2023”; and

5 (B) by inserting “and by the FISA  
6 Amendments Reauthorization Act of 2017”  
7 after “section 101(a)”;

8 (2) in paragraph (2), by inserting “and by the  
9 FISA Amendments Reauthorization Act of 2017”  
10 after “section 101(a)”;

11 (3) in paragraph (4)—

12 (A) by inserting “and amended by the  
13 FISA Amendments Reauthorization Act of  
14 2017” after “as added by section 101(a)” both  
15 places it appears; and

16 (B) by inserting “and by the FISA  
17 Amendments Reauthorization Act of 2017”  
18 after “as amended by section 101(a)” both  
19 places it appears.

20 (c) EFFECTIVE DATE OF AMENDMENTS TO FAA.—

21 The amendments made to the FISA Amendments Act of  
22 2008 (Public Law 110–261) by this section shall take ef-  
23 fect on December 31, 2017.

1 **SEC. 202. INCREASED PENALTY FOR UNAUTHORIZED RE-**  
2 **MOVAL AND RETENTION OF CLASSIFIED DOC-**  
3 **UMENTS OR MATERIAL.**

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

7 **SEC. 203. REPORT ON CHALLENGES TO THE EFFECTIVE-**  
8 **NESS OF FOREIGN INTELLIGENCE SURVEIL-**  
9 **LANCE.**

10 (a) REPORT.—Not later than 270 days after the date  
11 of the enactment of this Act, the Attorney General, in co-  
12 ordination with the Director of National Intelligence, shall  
13 submit to the Committee on the Judiciary and the Perma-  
14 nent Select Committee on Intelligence of the House of  
15 Representatives and the Committee on the Judiciary and  
16 the Select Committee on Intelligence of the Senate a re-  
17 port on current and future challenges to the effectiveness  
18 of the foreign intelligence surveillance activities of the  
19 United States authorized under the Foreign Intelligence  
20 Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

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

23 (1) A discussion of any trends that currently  
24 challenge the effectiveness of the foreign intelligence  
25 surveillance activities of the United States, or could  
26 foreseeably challenge such activities during the dec-

1       ade following the date of the report, including with  
2       respect to—

3               (A) the extraordinary and surging volume  
4               of data occurring worldwide;

5               (B) the use of encryption;

6               (C) changes to worldwide telecommuni-  
7               cations patterns or infrastructure;

8               (D) technical obstacles in determining the  
9               location of data or persons;

10              (E) the increasing complexity of the legal  
11              regime, including regarding requests for data in  
12              the custody of foreign governments;

13              (F) the current and future ability of the  
14              United States to obtain, on a compulsory or  
15              voluntary basis, assistance from telecommuni-  
16              cations providers or other entities; and

17              (G) any other matters the Attorney Gen-  
18              eral and the Director of National Intelligence  
19              determine appropriate.

20              (2) Recommendations for changes, including, as  
21              appropriate, fundamental changes, to the foreign in-  
22              telligence surveillance activities of the United States  
23              to address the challenges identified under paragraph  
24              (1) and to ensure the long-term effectiveness of such  
25              activities.

1           (3) Recommendations for any changes to the  
2 Foreign Intelligence Surveillance Act of 1978 (50  
3 U.S.C. 1801 et seq.) that the Attorney General and  
4 the Director of National Intelligence determine nec-  
5 essary to address the challenges identified under  
6 paragraph (1).

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

9 **SEC. 204. COMPTROLLER GENERAL STUDY ON THE CLASSI-**  
10 **FICATION SYSTEM AND PROTECTION OF**  
11 **CLASSIFIED INFORMATION.**

12           (a) STUDY.—The Comptroller General of the United  
13 States shall conduct a study of the classification system  
14 of the United States and the methods by which the intel-  
15 ligence community (as defined in section 3(4) of the Na-  
16 tional Security Act of 1947 (50 U.S.C. 3003(4))) protects  
17 classified information.

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

20           (1) Whether sensitive information is properly  
21 classified.

22           (2) The effect of modern technology on the  
23 storage and protection of classified information, in-  
24 cluding with respect to—



1 (A) using cloud storage for classified infor-  
2 mation; and

3 (B) any technological means to prevent or  
4 detect unauthorized access to such information.

5 (3) Any ways to improve the classification sys-  
6 tem of the United States, including with respect to  
7 changing the levels of classification used in such sys-  
8 tem and to reduce overclassification.

9 (4) How to improve the authorized sharing of  
10 classified information, including with respect to sen-  
11 sitive compartmented information.

12 (5) The value of polygraph tests in determining  
13 who is authorized to access classified information  
14 and in investigating unauthorized disclosures of clas-  
15 sified information.

16 (6) Whether each element of the intelligence  
17 community—

18 (A) applies uniform standards in deter-  
19 mining who is authorized to access classified in-  
20 formation; and

21 (B) provides proper training with respect  
22 to the handling of classified information and  
23 the avoidance of overclassification.

24 (c) REPORT.—Not later than 180 days after the date  
25 of the enactment of this Act, the Comptroller General shall

1 submit to the Committee on the Judiciary and the Perma-  
2 nent Select Committee on Intelligence of the House of  
3 Representatives and the Committee on the Judiciary and  
4 the Select Committee on Intelligence of the Senate a re-  
5 port containing the study under subsection (a).

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

9 **SEC. 205. TECHNICAL AMENDMENTS AND AMENDMENTS TO**  
10 **IMPROVE PROCEDURES OF THE FOREIGN IN-**  
11 **TELLIGENCE SURVEILLANCE COURT OF RE-**  
12 **VIEW.**

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

16 (1) In section 103(b) (50 U.S.C. 1803(b)), by  
17 striking “designate as the” and inserting “des-  
18 igned as the”.

19 (2) In section 302(a)(1)(A)(iii) (50 U.S.C.  
20 1822(a)(1)(A)(iii)), by striking “paragraphs (1)  
21 through (4)” and inserting “subparagraphs (A)  
22 through (D)”.

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

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

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

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

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

7 (A) in subsection (a), by striking “The  
8 terms” and inserting “In this title, the terms”;  
9 and

10 (B) in subsection (b)—

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

13 (ii) in paragraph (5), by striking “(50  
14 U.S.C. 401a(4))” and inserting “(50  
15 U.S.C. 3003(4))”.

16 (6) In section 702(h)(2)(A)(i) (50 U.S.C.  
17 1881a(h)(2)(A)(i)), as redesignated by section 101,  
18 by inserting “targeting” before “procedures in  
19 place”.

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

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

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

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

4 (B) in subsection (h), by striking “the  
5 court established under subsection (a)” and in-  
6 serting “a court established under this section”.

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

9 “(4) A denial of the application made under section  
10 104 may be reviewed as provided in section 103.”.

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

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

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

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

19 “(3) A denial of the application made under sub-  
20 section (a)(2) may be reviewed as provided in section  
21 103.”.

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

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

4 **SEC. 206. SEVERABILITY.**

5           If any provision of this Act, any amendment made  
6 by this Act, or the application thereof to any person or  
7 circumstances is held invalid, the validity of the remainder  
8 of the Act, of any such amendments, and of the applica-  
9 tion of such provisions to other persons and circumstances  
10 shall not be affected thereby.

Amend the title so as to read: “A bill to amend the Foreign Intelligence Surveillance Act of 1978 to improve foreign intelligence collection and the safeguards, accountability, and oversight of acquisitions of foreign intelligence, to extend title VII of such Act, and for other purposes.”.

