

118TH CONGRESS
1ST SESSION

S. 3351

To amend the Foreign Intelligence Surveillance Act of 1978 to extend certain expiring authorities, to restore certain expired authorities, and to institute reforms to protect the civil liberties of United States persons, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 28, 2023

Mr. WARNER (for himself, Mr. RUBIO, Mr. GRAHAM, Mr. WICKER, Ms. COLLINS, Mr. KING, Mr. BENNET, Mr. CASEY, Mrs. GILLIBRAND, Mr. ROUNDS, Mr. KELLY, Ms. KLOBUCHAR, Mr. MORAN, Mr. LANKFORD, and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Foreign Intelligence Surveillance Act of 1978 to extend certain expiring authorities, to restore certain expired authorities, and to institute reforms to protect the civil liberties of United States persons, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Foreign Intelligence Surveillance Act of 1978 Reform

1 and Reauthorization Act of 2023” or the “FISA Reform
2 and Reauthorization Act of 2023”.

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

Sec. 1. Short title; table of contents.

TITLE I—REFORM AND REAUTHORIZATION OF TITLE VII OF FISA

- Sec. 101. Extension of title VII of FISA.
- Sec. 102. Expanded protections for United States person queries.
- Sec. 103. Federal Bureau of Investigation compliance requirements.
- Sec. 104. Additional reporting regarding the FBI’s use of section 702 of FISA.
- Sec. 105. Increased oversight of activities involving Members of Congress.
- Sec. 106. Exception for consensual queries.
- Sec. 107. Procedures to enable travel vetting of non-United States persons.

TITLE II—ACCURACY AND INTEGRITY OF FISA PROCESS

- Sec. 201. Certifications regarding accuracy of FISA applications.
- Sec. 202. Submission of court transcripts to Congress.
- Sec. 203. Enhanced authorities for amicus curiae.
- Sec. 204. Prohibition on use of politically derived information in applications
for certain orders by the Foreign Intelligence Surveillance
Court.
- Sec. 205. Investigations relating to Federal candidates and elected Federal offi-
cials.
- Sec. 206. Removal or suspension of Federal officers for misconduct before For-
eign Intelligence Surveillance Court.
- Sec. 207. Additional penalties for offenses relating to FISA.
- Sec. 208. Contempts constituting crimes before the Foreign Intelligence Sur-
veillance Court and the Foreign Intelligence Surveillance Court
of Review.
- Sec. 209. Effective and independent advice for the Foreign Intelligence Surveil-
lance Court and the Foreign Intelligence Surveillance Court of
Review.
- Sec. 210. Enhancements to congressional oversight.
- Sec. 211. Establishment of compliance officers.
- Sec. 212. FISA Reform Commission.

1 **TITLE I—REFORM AND REAU-**
 2 **THORIZATION OF TITLE VII**
 3 **OF FISA**

4 **SEC. 101. EXTENSION OF TITLE VII OF FISA.**

5 (a) EXTENSION.—Section 403(b) of the Foreign In-
 6 telligence Surveillance Act of 1978 Amendments Act of
 7 2008 is amended—

8 (1) in paragraph (1) (Public Law 110–261; 50
 9 U.S.C. 1881 note)—

10 (A) by striking “December 31, 2023” and
 11 inserting “December 31, 2035”; and

12 (B) by striking “and by the FISA Amend-
 13 ments Reauthorization Act of 2017” and insert-
 14 ing “, the FISA Amendments Reauthorization
 15 Act of 2017, and the Foreign Intelligence Sur-
 16 veillance Act of 1978 Reform and Reauthoriza-
 17 tion Act of 2023”; and

18 (2) in paragraph (2) (Public Law 110–261; 18
 19 U.S.C. 2511 note), in the matter preceding subpara-
 20 graph (A), by striking “December 31, 2023” and in-
 21 serting “December 31, 2035”.

22 (b) CONFORMING AMENDMENTS.—Section 404(b) of
 23 the Foreign Intelligence Surveillance Act of 1978 Amend-
 24 ments Act of 2008 is amended—

25 (1) in paragraph (1)—

1 (A) in the paragraph heading, by striking
2 “DECEMBER 31, 2023” and inserting “DECEM-
3 BER 31, 2035”; and

4 (B) by striking “and by the FISA Amend-
5 ments Reauthorization Act of 2017” and insert-
6 ing “, the FISA Amendments Reauthorization
7 Act of 2017, and the Foreign Intelligence Sur-
8 veillance Act of 1978 Reform and Reauthoriza-
9 tion Act of 2023”;

10 (2) in paragraph (2), by striking “and by the
11 FISA Amendments Reauthorization Act of 2017”
12 and inserting “, the FISA Amendments Reauthor-
13 ization Act of 2017, and the Foreign Intelligence
14 Surveillance Act of 1978 Reform and Reauthoriza-
15 tion Act of 2023”; and

16 (3) in paragraph (4), by striking “and by the
17 FISA Amendments Reauthorization Act of 2017”
18 each place it appears and inserting “, the FISA
19 Amendments Reauthorization Act of 2017, and the
20 Foreign Intelligence Surveillance Act of 1978 Re-
21 form and Reauthorization Act of 2023”.

1 **SEC. 102. EXPANDED PROTECTIONS FOR UNITED STATES**
2 **PERSON QUERIES.**

3 Paragraph (2) of section 702(f) of the Foreign Intel-
4 ligence Surveillance Act of 1978 (50 U.S.C. 1881a(f)) is
5 amended to read as follows:

6 “(2) PROHIBITION OF QUERIES THAT ARE
7 SOLELY DESIGNED TO FIND AND EXTRACT EVI-
8 DENCE OF A CRIME.—

9 “(A) PROHIBITION.—Except as provided
10 by subparagraph (B), the querying procedures
11 adopted under paragraph (1) shall prohibit que-
12 ries of information collected pursuant to an au-
13 thorization under subsection (a) that are solely
14 designed to find and extract evidence of crimi-
15 nal activity.

16 “(B) EXCEPTIONS.—The restriction under
17 subparagraph (A) prohibiting certain queries of
18 information collected pursuant to an authoriza-
19 tion under subsection (a) shall not apply with
20 respect to a query if—

21 “(i) there is a reasonable belief that
22 such query may retrieve information that
23 could assist in mitigating or eliminating a
24 threat to life or serious bodily harm; or

25 “(ii) such query is necessary to iden-
26 tify information that must be produced or

preserved in connection with a litigation matter or to fulfill discovery obligations in criminal matters under the laws of the United States or any State thereof.”.

SEC. 103. FEDERAL BUREAU OF INVESTIGATION COMPLIANCE REQUIREMENTS.

Section 702(f) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1881a(f)), as amended by section 102, is further amended—

(1) by redesignating paragraph (3) as paragraph (5); and

(2) by inserting after paragraph (2) the following:

“(3) REQUIREMENTS RELATING TO FEDERAL BUREAU OF INVESTIGATION.—

“(A) IN GENERAL.—For any procedures adopted under paragraph (1) for the Federal Bureau of Investigation, the Attorney General, in consultation with the Director of National Intelligence, shall also ensure that the procedures—

“(i) prohibit personnel of the Bureau from conducting any query, unless such personnel successfully complete relevant training;

1 “(ii) require that all systems of the
2 Bureau that store unminimized contents or
3 noncontents obtained through acquisitions
4 authorized under subsection (a) together
5 with contents or noncontents obtained
6 through other lawful means must—

7 “(I) be configured such that per-
8 sonnel of the Bureau must affirma-
9 tively opt-in in order to include such
10 unminimized contents or noncontents
11 obtained through acquisitions author-
12 ized under subsection (a) when run-
13 ning a query; or

14 “(II) contain other controls rea-
15 sonably expected to prevent inad-
16 vertent queries of unminimized con-
17 tents or noncontents obtained through
18 acquisitions authorized under sub-
19 section (a);

20 “(iii) require prior approval from an
21 attorney of the Bureau for any query using
22 the Bureau’s batch job technology or a
23 successor tool, absent exigent cir-
24 cumstances;

1 “(iv) require prior approval, absent
2 exigent circumstances, from the Director of
3 the Bureau, the Deputy Director of the
4 Bureau, or the Executive Assistant Direc-
5 tor for the National Security Branch of the
6 Bureau, in coordination with the General
7 Counsel of the Bureau or an attorney des-
8 ignated by the General Counsel to provide
9 appropriate legal review, for any query
10 term reasonably believed to identify—

11 “(I) a United States elected offi-
12 cial;

13 “(II) an appointee of the Presi-
14 dent or a State Governor;

15 “(III) a United States political
16 candidate;

17 “(IV) a United States political
18 organization or an individual promi-
19 nent in such organization;

20 “(V) a United States news media
21 or a member of a United States news
22 media; or

23 “(VI) a United States religious
24 organization or an individual promi-
25 nent in such organization; and

1 “(v) require that, prior to conducting
2 a query using a United States person
3 query term, personnel of the Bureau pro-
4 vide a written statement of the specific fac-
5 tual basis to believe that such query meets
6 the standard required by the procedures
7 adopted under paragraph (1).

8 “(B) RECORD OF WRITTEN STATE-
9 MENTS.—The Director of the Federal Bureau
10 of Investigation shall develop a technical proce-
11 dure whereby a record is kept of each written
12 statement provided pursuant to subparagraph
13 (A)(v).

14 “(C) WAIVER AUTHORITY FOR FOREIGN
15 INTELLIGENCE SURVEILLANCE COURT.—If the
16 Foreign Intelligence Surveillance Court finds
17 that the procedures adopted under paragraph
18 (1) for the Federal Bureau of Investigation in-
19 clude measures that are reasonably expected to
20 result in similar compliance outcomes as the
21 measures specified in clauses (i) through (v) of
22 subparagraph (A), the Foreign Intelligence Sur-
23 veillance Court may waive one or more of the
24 requirements specified in such clauses.

1 “(4) ACCOUNTABILITY PROCEDURES FOR FED-
2 ERAL BUREAU OF INVESTIGATION.—

3 “(A) IN GENERAL.—The Director of the
4 Federal Bureau of Investigation shall adopt ac-
5 countability procedures which shall be reason-
6 ably designed to ensure investigation, con-
7 sequences, and disciplinary action, where appro-
8 priate, for query compliance incidents.

9 “(B) REQUIREMENT TO PROVIDE NOTIFI-
10 CATION OF MATERIAL CHANGES.—The Director
11 of the Federal Bureau of Investigation shall—

12 “(i) provide the Select Committee on
13 Intelligence of the Senate and the Perma-
14 nent Select Committee on Intelligence of
15 the House of Representatives the proce-
16 dures adopted in accordance with subpara-
17 graph (A); and

18 “(ii) promptly provide to such com-
19 mittees notice whenever any material
20 change is made to the procedures adopted
21 in accordance with subparagraph (A).”.

1 **SEC. 104. ADDITIONAL REPORTING REGARDING THE FBI'S**
2 **USE OF SECTION 702 OF FISA.**

3 (a) IN GENERAL.—Section 603 of the Foreign Intel-
4 ligence Surveillance Act of 1978 (50 U.S.C. 1873) is
5 amended by—

6 (1) in subsection (b)(2)(B), inserting “(or com-
7 bination of unminimized contents and noncontents
8 information)” after “unminimized contents”;

9 (2) in subsection (d)(2), by striking “TO CER-
10 TAIN INFORMATION” and all that follows through
11 “ELECTRONIC MAIL ADDRESS AND TELEPHONE
12 NUMBERS” and inserting “TO ELECTRONIC MAIL AD-
13 DRESS AND TELEPHONE NUMBERS”;

14 (3) redesignating subsection (e) as subsection
15 (f); and

16 (4) inserting after subsection (d) the following:
17 “(e) MANDATORY REPORTING BY DIRECTOR OF THE
18 FEDERAL BUREAU OF INVESTIGATION.—

19 “(1) ANNUAL REPORT.—Each year, the Direc-
20 tor of the Federal Bureau of Investigation shall sub-
21 mit to the Select Committee on Intelligence and the
22 Committee on the Judiciary of the Senate and the
23 Permanent Select Committee on Intelligence and the
24 Committee on the Judiciary of the House of Rep-
25 resentatives an annual report that includes—

1 “(A) the number of United States person
2 queries by the Federal Bureau of Investigation
3 of unminimized contents or noncontents ac-
4 quired pursuant to section 702(a);

5 “(B) the number of approved queries using
6 the Federal Bureau of Investigation’s batch job
7 technology, or successor tool;

8 “(C) the number of queries using the Fed-
9 eral Bureau of Investigation’s batch job tech-
10 nology, or successor tool, conducted by the Fed-
11 eral Bureau of Investigation against informa-
12 tion acquired pursuant to section 702(a) for
13 which pre-approval was not obtained due to
14 emergency circumstances;

15 “(D) the number of United States person
16 queries conducted by the Federal Bureau of In-
17 vestigation of unminimized contents or noncon-
18 tents acquired pursuant to section 702(a) solely
19 to retrieve evidence of a crime;

20 “(E) a good faith estimate of the number
21 of United States person query terms used by
22 the Federal Bureau of Investigation to conduct
23 queries of unminimized contents or noncontents
24 acquired pursuant to section 702(a) primarily

1 to protect the United States person who is the
2 subject of the query; and

3 “(F) a good faith estimate of the number
4 of United States person query terms used by
5 the Federal Bureau of Investigation to conduct
6 queries of unminimized contents or noncontents
7 acquired pursuant to section 702(a) where the
8 United States person who is the subject of the
9 query is a target or subject of an investigation
10 by the Federal Bureau of Investigation.

11 “(2) PUBLIC AVAILABILITY.—Subject to declas-
12 sification review by the Attorney General and the
13 Director of National Intelligence, each annual report
14 submitted pursuant to paragraph (1) shall be avail-
15 able to the public during the first April following the
16 calendar year covered by the report.”.

17 (b) EFFECTIVE DATE.—The amendments made by
18 this section shall take effect on January 1, 2025.

19 **SEC. 105. INCREASED OVERSIGHT OF ACTIVITIES INVOLV-**
20 **ING MEMBERS OF CONGRESS.**

21 Section 702(f) of the Foreign Intelligence Surveil-
22 lance Act of 1978 (50 U.S.C. 1881a(f)(1)), as amended
23 by sections 102 and 103, is further amended—

24 (1) by redesignating paragraph (5) as para-
25 graph (6); and

1 (2) by inserting after subparagraph (4), the fol-
 2 lowing:

3 “(5) ADDITIONAL NOTIFICATION REQUIREMENT
 4 FOR CERTAIN FEDERAL BUREAU OF INVESTIGATION
 5 QUERIES.—

6 “(A) IN GENERAL.—If the Federal Bureau
 7 of Investigation knowingly conducts 1 or more
 8 queries using query terms reasonably likely to
 9 identify 1 or more specific individuals who are
 10 Members of Congress, the Director of the Fed-
 11 eral Bureau of Investigation shall promptly no-
 12 tify each Member of Congress specified in sub-
 13 paragraph (B), as well as each Member who is
 14 the subject of the query, of such query.

15 “(B) MEMBERS SPECIFIED.—The Mem-
 16 bers of Congress specified in this clause are the
 17 following:

18 “(i) The chairperson and ranking
 19 Member of each of the following:

20 “(I) The Select Committee on In-
 21 telligence of the Senate.

22 “(II) The Committee on the Ju-
 23 diciary of the Senate.

1 “(III) The Permanent Select
2 Committee on Intelligence of the
3 House of Representatives.

4 “(IV) The Committee on the Ju-
5 diciary of the House of Representa-
6 tives.

7 “(ii) The majority leader of the Sen-
8 ate.

9 “(iii) The minority leader of the Sen-
10 ate.

11 “(iv) The Speaker of the House of
12 Representatives.

13 “(v) The minority leader of the House
14 of Representatives.

15 “(C) NATIONAL SECURITY CONSIDER-
16 ATIONS.—In submitting a notification under
17 subparagraph (A), the Director shall give due
18 regard to the protection of classified informa-
19 tion, sources and methods, and national secu-
20 rity.

21 “(D) WAIVER.—

22 “(i) IN GENERAL.—The Director may
23 waive a notification required under sub-
24 paragraph (A) if the Director determines
25 such notification would impede an ongoing

1 national security or law enforcement inves-
 2 tigation.

3 “(ii) TERMINATION.—A waiver under
 4 clause (i) shall terminate on the earliest
 5 of—

6 “(I) the date the Director deter-
 7 mines the relevant notification would
 8 not impede the relevant national secu-
 9 rity or law enforcement investigation;
 10 or

11 “(II) the date that such inves-
 12 tigation ends.”.

13 **SEC. 106. EXCEPTION FOR CONSENSUAL QUERIES.**

14 Section 702(f)(1) of the Foreign Intelligence Surveil-
 15 lance Act of 1978 (50 U.S.C. 1881a(f)(1)) is amended by
 16 adding at the end the following:

17 “(D) CONSENSUAL QUERIES.—The query
 18 standard set forth in the procedures adopted
 19 pursuant to subparagraph (A) shall include an
 20 exception for cases in which the subject of the
 21 query, or a third party authorized to consent on
 22 behalf of the subject, has provided consent for
 23 the query.”.

1 **SEC. 107. PROCEDURES TO ENABLE TRAVEL VETTING OF**
 2 **NON-UNITED STATES PERSONS.**

3 Section 702(f) of the Foreign Intelligence Surveil-
 4 lance Act of 1978 (50 U.S.C. 1881a(f)), as amended by
 5 section 105, is further amended—

6 (1) by redesignating paragraph (6) as para-
 7 graph (7); and

8 (2) by inserting after subparagraph (5) the fol-
 9 lowing:

10 “(6) TRAVEL VETTING OF NON-UNITED STATES
 11 PERSONS.—For any procedures adopted under para-
 12 graph (1)(A), the Attorney General, in consultation
 13 with the Director of National Intelligence, shall en-
 14 sure that the procedures enable the vetting of non-
 15 United States persons who are being processed for
 16 travel to the United States using terms that do not
 17 qualify as United States person query terms under
 18 this Act.”.

19 **TITLE II—ACCURACY AND**
 20 **INTEGRITY OF FISA PROCESS**

21 **SEC. 201. CERTIFICATIONS REGARDING ACCURACY OF FISA**
 22 **APPLICATIONS.**

23 (a) TITLE I.—Subsection (a) of section 104 of the
 24 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
 25 1804) is amended—

1 (1) in paragraph (8), by striking “; and” and
2 inserting a semicolon;

3 (2) in paragraph (9), by striking the period at
4 the end and inserting “; and”; and

5 (3) by adding at the end the following:

6 “(10) a certification by the applicant or declar-
7 ant that, to the best knowledge of the applicant or
8 declarant, the attorney for the Government and the
9 Department of Justice has been apprised of all in-
10 formation that might reasonably—

11 “(A) call into question the accuracy of the
12 application or the reasonableness of any assess-
13 ment in the application conducted by the de-
14 partment or agency on whose behalf the appli-
15 cation is made; or

16 “(B) otherwise raise doubts with respect to
17 the findings required under section 105(a).”.

18 (b) TITLE III.—Subsection (a) of section 303 of such
19 Act (50 U.S.C. 1823) is amended—

20 (1) in paragraph (7), by striking “; and” and
21 inserting a semicolon;

22 (2) in paragraph (8), by striking the period at
23 the end and inserting “; and”; and

24 (3) by adding at the end the following:

1 “(9) a certification by the applicant that, to the
2 best knowledge of the applicant, the attorney for the
3 Government and the Department of Justice has been
4 apprised of all information that might reasonably—

5 “(A) call into question the accuracy of the
6 application or the reasonableness of any assess-
7 ment in the application conducted by the de-
8 partment or agency on whose behalf the appli-
9 cation is made; or

10 “(B) otherwise raise doubts with respect to
11 the findings required under section 304(a).”.

12 (c) TITLE IV.—Subsection (c) of section 402 of such
13 Act (50 U.S.C. 1842) is amended—

14 (1) in paragraph (2), by striking “; and” and
15 inserting a semicolon;

16 (2) in paragraph (3), by striking the period at
17 the end and inserting “; and”; and

18 (3) by adding at the end the following:

19 “(4) a certification by the Federal officer seek-
20 ing to use the pen register or trap and trace device
21 covered by the application that, to the best knowl-
22 edge of the Federal officer, the attorney for the Gov-
23 ernment and the Department of Justice has been
24 apprised of all information that might reasonably—

1 “(A) call into question the accuracy of the
 2 application or the reasonableness of any assess-
 3 ment in the application conducted by the de-
 4 partment or agency on whose behalf the appli-
 5 cation is made; or

6 “(B) otherwise raise doubts with respect to
 7 the findings required under subsection (d).”.

8 (d) TITLE V.—Subsection (b) of section 502 of such
 9 Act (50 U.S.C. 1862) is amended—

10 (1) in paragraph (1)(B), by striking “; and”
 11 and inserting a semicolon;

12 (2) in paragraph (2)(B), by striking the period
 13 at the end and inserting “; and”; and

14 (3) by adding at the end the following:

15 “(3) shall include a statement by the applicant
 16 that, to the best knowledge of the applicant, the ap-
 17 plication fairly reflects all information that might
 18 reasonably—

19 “(A) call into question the accuracy of the
 20 application or the reasonableness of any assess-
 21 ment in the application conducted by the de-
 22 partment or agency on whose behalf the appli-
 23 cation is made; or

24 “(B) otherwise raise doubts with respect to
 25 the findings required under subsection (c).”.

1 (e) TITLE VII.—

2 (1) SECTION 703.—Subsection (b)(1) of section
3 703 of such Act (50 U.S.C. 1881b) is amended—

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

6 (B) in subparagraph (J), by striking the
7 period at the end and inserting “; and”; and

8 (C) by adding at the end the following:

9 “(K) a certification by the applicant that,
10 to the best knowledge of the applicant, the at-
11 torney for the Government and the Department
12 of Justice has been apprised of all information
13 that might reasonably—

14 “(i) call into question the accuracy of
15 the application or the reasonableness of
16 any assessment in the application con-
17 ducted by the department or agency on
18 whose behalf the application is made; or

19 “(ii) otherwise raise doubts with re-
20 spect to the findings required under sub-
21 section (c).”.

22 (2) SECTION 704.—Subsection (b) of section
23 704 of such Act (50 U.S.C. 1881c) is amended—

24 (A) in paragraph (6), by striking “; and”
25 and inserting a semicolon;

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

3 (C) by adding at the end the following new
4 paragraph:

5 “(8) a certification by the applicant that, to the
6 best knowledge of the applicant, the attorney for the
7 Government and the Department of Justice has been
8 apprised of all information that might reasonably—

9 “(A) call into question the accuracy of the
10 application or the reasonableness of any assess-
11 ment in the application conducted by the de-
12 partment or agency on whose behalf the appli-
13 cation is made; or

14 “(B) otherwise raise doubts with respect to
15 the findings required under subsection (c).”.

16 (f) REVIEW OF CASE FILES TO ENSURE ACCU-
17 RACY.—Not later than 180 days after the date of the en-
18 actment of this Act, the Attorney General, in consultation
19 with the Director of the Federal Bureau of Investigation,
20 shall issue procedures governing the review of case files,
21 as appropriate, to ensure that applications to the Foreign
22 Intelligence Surveillance Court under title I or III of the
23 Foreign Intelligence Surveillance Act of 1978 (50 U.S.C.
24 1801 et seq.) that target United States persons are accu-
25 rate and complete.

1 **SEC. 202. SUBMISSION OF COURT TRANSCRIPTS TO CON-**
 2 **GRESS.**

3 Section 601(c) of the Foreign Intelligence Surveil-
 4 lance Act of 1978 (50 U.S.C. 1871(c)) is amended—

5 (1) in paragraph (1), by striking “; and” and
 6 inserting a semicolon;

7 (2) in paragraph (2), by striking the period at
 8 the end and inserting “; and”; and

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

11 “(3) for any matter at which a court reporter
 12 is present and creates a transcript of a hearing or
 13 oral argument before the Foreign Intelligence Sur-
 14 veillance Court or the Foreign Intelligence Surveil-
 15 lance Court of Review, a copy of each such tran-
 16 script not later than 45 days after the government’s
 17 receipt of the transcript or the date on which the
 18 matter concerning such hearing or oral argument is
 19 resolved, whichever is later.”.

20 **SEC. 203. ENHANCED AUTHORITIES FOR AMICUS CURIAE.**

21 (a) **EXPANSION OF APPOINTMENT AUTHORITY.—**

22 (1) **IN GENERAL.**—Section 103(i)(2) of the For-
 23 eign Intelligence Surveillance Act of 1978 (50
 24 U.S.C. 1803(i)(2)) is amended—

25 (A) by striking subparagraph (A) and in-
 26 serting the following:

1 “(A) shall appoint 1 or more individuals
2 who have been designated under paragraph (1),
3 not less than 1 of whom possesses privacy and
4 civil liberties expertise, unless the court finds
5 that such a qualification is inappropriate, to
6 serve as amicus curiae to assist the court in the
7 consideration of any application or motion for
8 an order or review that, in the opinion of the
9 court—

10 “(i) presents a novel or significant in-
11 terpretation of the law, unless the court
12 issues a finding that such appointment is
13 not appropriate;

14 “(ii) presents exceptional concerns
15 with respect to the activities of a United
16 States person that are protected by the
17 first amendment to the Constitution of the
18 United States, unless the court issues a
19 finding that such appointment is not ap-
20 propriate;

21 “(iii) targets a United States person
22 and presents or involves a sensitive inves-
23 tigative matter, unless—

24 “(I) the matter represents an im-
25 mediate danger to human life; and

1 “(II) the court issues a finding
2 that such appointment is not appro-
3 priate;

4 “(iv) targets a United States person
5 and presents a request for approval of a
6 new programmatic surveillance or reau-
7 thorization of it, unless the court issues a
8 finding that such appointment is not ap-
9 propriate; or

10 “(v) targets a United States person
11 and otherwise presents novel or exceptional
12 civil liberties issues, unless the court issues
13 a finding that such appointment is not ap-
14 propriate; and”; and

15 (B) in subparagraph (B), by striking “an
16 individual or organization” each place the term
17 appears and inserting “one or more individuals
18 or organizations”.

19 (2) DEFINITION OF SENSITIVE INVESTIGATIVE
20 MATTER.—Subsection (i) of section 103 of such Act
21 (50 U.S.C. 1803) is amended by adding at the end
22 the following:

23 “(12) DEFINITION OF SENSITIVE INVESTIGA-
24 TIVE MATTER.—In this subsection, the term ‘sen-
25 sitive investigative matter’ means—

1 “(A) an investigative matter that targets a
 2 United States person who is—

3 “(i) a United States elected official;

4 “(ii) an appointee of the President or
 5 a State Governor;

6 “(iii) a United States political can-
 7 didate;

8 “(iv) a United States political organi-
 9 zation or an individual prominent in such
 10 organization;

11 “(v) a United States news media or
 12 member of a United States news media; or

13 “(vi) a United States religious organi-
 14 zation or an individual prominent in such
 15 organization; or

16 “(B) any other investigative matter involv-
 17 ing a domestic entity or a known or presumed
 18 United States person that, in the judgment of
 19 the applicable court established under sub-
 20 section (a) or (b), is as sensitive as an inves-
 21 tigative matter described in subparagraph
 22 (A).”.

23 (b) AUTHORITY TO SEEK REVIEW.—Subsection (i)
 24 of such section (50 U.S.C. 1803), as amended by sub-
 25 section (a) of this section, is amended—

1 (1) in paragraph (4)—

2 (A) in the paragraph heading, by inserting
3 “; AUTHORITY” after “DUTIES”;

4 (B) by redesignating subparagraphs (A),
5 (B), and (C) as clauses (i), (ii), and (iii), re-
6 spectively, and adjusting the margins accord-
7 ingly;

8 (C) in the matter preceding clause (i), as
9 so designated, by striking “the amicus curiae
10 shall” and inserting the following: “the amicus
11 curiae—

12 “(A) shall”;

13 (D) in subparagraph (A)(i), as so des-
14 ignated, by inserting before the semicolon at the
15 end the following: “, including legal arguments
16 regarding any privacy or civil liberties interest
17 of any United States person that would be sig-
18 nificantly impacted by the application or mo-
19 tion”; and

20 (E) by striking the period at the end and
21 inserting the following: “; and

22 “(B) may seek leave to raise any novel or
23 significant privacy or civil liberties issue rel-
24 evant to the application or motion or other
25 issue directly impacting the legality of the pro-

1 posed electronic surveillance with the court, re-
 2 gardless of whether the court has requested as-
 3 sistance on that issue.”;

4 (2) by redesignating paragraphs (7) through
 5 (12) as paragraphs (8) through (13), respectively;
 6 and

7 (3) by inserting after paragraph (6) the fol-
 8 lowing:

9 “(7) AUTHORITY TO SEEK REVIEW OF DECI-
 10 SIONS.—

11 “(A) FISA COURT DECISIONS.—Following
 12 issuance of a final order under this Act by the
 13 Foreign Intelligence Surveillance Court in a
 14 matter in which an amicus curiae was ap-
 15 pointed under paragraph (2), that amicus cu-
 16 riae may petition the Foreign Intelligence Sur-
 17 veillance Court to certify for review to the For-
 18 eign Intelligence Surveillance Court of Review a
 19 question of law pursuant to subsection (j). If
 20 the court denies such petition, the court shall
 21 provide for the record a written statement of
 22 the reasons for such denial. Upon certification
 23 of any question of law pursuant to this sub-
 24 paragraph, the Court of Review shall appoint
 25 the amicus curiae to assist the Court of Review

1 in its consideration of the certified question, un-
2 less the Court of Review issues a finding that
3 such appointment is not appropriate.

4 “(B) FISA COURT OF REVIEW DECISIONS.—An amicus curiae appointed under
5 paragraph (2) may petition the Foreign Intel-
6 ligence Surveillance Court of Review to certify
7 for review to the Supreme Court of the United
8 States any question of law pursuant to section
9 1254(2) of title 28, United States Code, in the
10 matter in which that amicus curiae was ap-
11 pointed.
12

13 “(C) DECLASSIFICATION OF REFERRALS.—For purposes of section 602, if the For-
14 eign Intelligence Surveillance Court or Foreign
15 Intelligence Surveillance Court of Review denies
16 a petition filed under subparagraph (A) or (B)
17 of this paragraph, that petition and all of its
18 content shall be considered a decision, order, or
19 opinion issued by the Foreign Intelligence Sur-
20 veillance Court or the Foreign Intelligence Sur-
21 veillance Court of Review described in para-
22 graph (2) of section 602(a).”.

23
24 (c) ACCESS TO INFORMATION.—

(1) APPLICATION AND MATERIALS.—Subpara-
graph (A) of section 103(i)(6) of such Act (50
U.S.C. 1803(i)(6)) is amended to read as follows:

“(A) IN GENERAL.—

“(i) RIGHT OF AMICUS.—If a court
established under subsection (a) or (b) ap-
points an amicus curiae under paragraph
(2), the amicus curiae—

“(I) shall have access to, to the
extent such information is available to
the Government and the court estab-
lished under subsection (a) or (b) de-
termines it is necessary to fulfill the
duties of the amicus curiae—

“(aa) the application, certifi-
cation, petition, motion, and
other information and supporting
materials submitted to the For-
eign Intelligence Surveillance
Court in connection with the
matter in which the amicus cu-
riae has been appointed, includ-
ing access to any relevant legal
precedent (including any such
precedent that is cited by the

1 Government, including in such an
2 application);

3 “(bb) a copy of each rel-
4 evant decision made by the For-
5 eign Intelligence Surveillance
6 Court or the Foreign Intelligence
7 Surveillance Court of Review in
8 which the court decides a ques-
9 tion of law, without regard to
10 whether the decision is classified;
11 and

12 “(cc) any other information
13 or materials that the court deter-
14 mines are relevant to the duties
15 of the amicus curiae; and

16 “(II) may make a submission to
17 the court requesting access to any
18 other particular materials or informa-
19 tion (or category of materials or infor-
20 mation) that the amicus curiae be-
21 lieves to be relevant to the duties of
22 the amicus curiae.

23 “(ii) SUPPORTING DOCUMENTATION
24 REGARDING ACCURACY.—The Foreign In-
25 telligence Surveillance Court, upon the mo-

tion of an amicus curiae appointed under paragraph (2) or upon its own motion, may require the Government to make available the supporting documentation if the court determines the information is relevant to the duties of the amicus curiae.”.

(2) CLARIFICATION OF ACCESS TO CERTAIN INFORMATION.—Such section is further amended by striking subparagraph (C) and inserting the following:

“(C) CLASSIFIED INFORMATION.—An amicus curiae appointed by the court shall have access, to the extent such information is available to the Government and the court determines such information is relevant to the duties of the amicus curiae in the matter in which the amicus curiae was appointed, to copies of each opinion, order, transcript, pleading, or other document of the Foreign Intelligence Surveillance Court and the Foreign Intelligence Surveillance Court of Review, including, if the individual is eligible for access to classified information, any classified documents, information, and other materials or proceedings, but only to the

1 extent consistent with the national security of
 2 the United States.”.

3 (3) CONSULTATION AMONG AMICI CURIAE.—

4 Such section is further amended—

5 (A) by redesignating subparagraphs (B),
 6 (C), and (D) as subparagraphs (C), (D), and
 7 (E), respectively; and

8 (B) by inserting after subparagraph (A)
 9 the following new subparagraph:

10 “(B) CONSULTATION.—If the Foreign In-
 11 telligence Surveillance Court or the Foreign In-
 12 telligence Surveillance Court of Review deter-
 13 mines that it is relevant to the duties of an
 14 amicus curiae appointed by the court under
 15 paragraph (2), the amicus curiae may consult
 16 with 1 or more of the other individuals des-
 17 ignated by the court to serve as amicus curiae
 18 pursuant to paragraph (1) regarding any of the
 19 information relevant to any assigned pro-
 20 ceeding.”.

21 (d) TERM LIMITS.—

22 (1) REQUIREMENT.—Paragraph (1) of section
 23 103(i) of such Act (50 U.S.C. 1803(i)) is amended
 24 by adding at the end the following new sentence:

25 “An individual may serve as an amicus curiae for a

1 5-year term, and the presiding judges may, for good
 2 cause, jointly reappoint the individual to a single ad-
 3 ditional term.”.

4 (2) APPLICATION.—The amendment made by
 5 paragraph (1) shall apply with respect to the service
 6 of an amicus curiae appointed under section 103(i)
 7 of such Act (50 U.S.C. 1803(i)) that occurs on or
 8 after the date of the enactment of this Act, regard-
 9 less of the date on which the amicus curiae is ap-
 10 pointed.

11 **SEC. 204. PROHIBITION ON USE OF POLITICALLY DERIVED**
 12 **INFORMATION IN APPLICATIONS FOR CER-**
 13 **TAIN ORDERS BY THE FOREIGN INTEL-**
 14 **LIGENCE SURVEILLANCE COURT.**

15 (a) TITLE I ORDERS.—Section 104(a)(6) of the For-
 16 eign Intelligence Surveillance Act of 1978 (50 U.S.C.
 17 1804(a)(6)) is amended—

18 (1) in subparagraph (D), by striking “; and”
 19 and inserting a semicolon;

20 (2) in subparagraph (E)(ii), by striking the
 21 semicolon and inserting “; and”; and

22 (3) by adding after subparagraph (E) the fol-
 23 lowing new subparagraph:

24 “(F) that none of the information included
 25 in the statement described in paragraph (3)

was solely produced by, derived from, or collected using funds of, a political organization (as defined in section 527 of the Internal Revenue Code of 1986) for the purpose of gaining an advantage against, or otherwise conducting research on, an opposing political candidate, unless—

“(i) the political organization that produced the information is clearly identified in the body of the statement;

“(ii) the information has been corroborated by other investigative techniques; and

“(iii) the investigative techniques used to corroborate the information are clearly identified in the body of the statement.”.

(b) TITLE III ORDERS.—Section 303(a)(6) of such Act (50 U.S.C. 1823(a)(6)) is amended—

(1) in subparagraph (D), by striking “; and” and inserting a semicolon;

(2) in subparagraph (E), by striking the semicolon and inserting “; and”; and

(3) by adding after subparagraph (E) the following new subparagraph:

“(F) that none of the information included in the statement described in paragraph (3) was solely produced by, derived from, or collected using funds of, a political organization (as defined in section 527 of the Internal Revenue Code of 1986) for the purpose of gaining an advantage against, or otherwise conducting research on, an opposing political candidate, unless—

“(i) the political organization that produced the information is clearly identified in the body of the statement;

“(ii) the information has been corroborated by other investigative techniques; and

“(iii) the investigative techniques used to corroborate the information are clearly identified in the body of the statement.”.

SEC. 205. INVESTIGATIONS RELATING TO FEDERAL CANDIDATES AND ELECTED FEDERAL OFFICIALS.

(a) TITLE I.—Section 104(a)(6) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1804(a)(6)), as amended by section 204, is further amended by adding at the end the following new subparagraph:

1 “(G) if the target of the electronic surveil-
 2 lance is an elected Federal official or a can-
 3 didate in a Federal election, that the Attorney
 4 General has approved in writing of the inves-
 5 tigation;”.

6 (b) TITLE III.—Section 303(a)(6) of such Act (50
 7 U.S.C. 1823(a)(6)), as amended by section 204, is further
 8 amended by adding at the end the following new subpara-
 9 graph:

10 “(G) if the target of the physical search is
 11 an elected Federal official or a candidate in a
 12 Federal election, that the Attorney General has
 13 approved in writing of the investigation;”.

14 **SEC. 206. REMOVAL OR SUSPENSION OF FEDERAL OFFI-**
 15 **CERS FOR MISCONDUCT BEFORE FOREIGN**
 16 **INTELLIGENCE SURVEILLANCE COURT.**

17 Section 103 of the Foreign Intelligence Surveillance
 18 Act of 1978 (50 U.S.C. 1803) is amended by adding at
 19 the end the following new subsection:

20 “(1) REMOVAL OR SUSPENSION OF FEDERAL OFFI-
 21 CERS FOR MISCONDUCT BEFORE COURTS.—An employee,
 22 officer, or contractor of the United States Government
 23 who knowingly engages in misconduct with respect to pro-
 24 ceedings before the Foreign Intelligence Surveillance
 25 Court or the Foreign Intelligence Surveillance Court of

1 Review shall be subject to appropriate adverse actions, in-
 2 cluding, as appropriate, suspension without pay or re-
 3 moval.”.

4 **SEC. 207. ADDITIONAL PENALTIES FOR OFFENSES RELAT-**
 5 **ING TO FISA.**

6 (a) FALSE DECLARATIONS BEFORE FISC AND
 7 FISCR.—Section 1623(a) of title 18, United States Code,
 8 is amended by inserting before “, or both” the following:
 9 “or, if such proceedings are before or ancillary to the For-
 10 eign Intelligence Surveillance Court or the Foreign Intel-
 11 ligence Surveillance Court of Review established by section
 12 103 of the Foreign Intelligence Surveillance Act of 1978
 13 (50 U.S.C. 1803), imprisoned not more than 10 years”.

14 (b) INCREASED PENALTY FOR UNAUTHORIZED
 15 USE.—Section 109(c) of the Foreign Intelligence Surveil-
 16 lance Act of 1978 (50 U.S.C. 1809(c)) is amended by
 17 striking “five years” and inserting “10 years”.

18 (c) UNAUTHORIZED DISCLOSURE OF APPLICA-
 19 TIONS.—

20 (1) IN GENERAL.—Subsection (a) of section
 21 109 of such Act (50 U.S.C. 1809) is amended—

22 (A) in the matter preceding paragraph (1),
 23 by striking “intentionally”;

24 (B) in paragraph (1)—

1 (i) by inserting “intentionally” before
2 “engages in”; and

3 (ii) by striking “; or” and inserting a
4 semicolon;

5 (C) in paragraph (2)—

6 (i) by inserting “intentionally” before
7 “disclose or uses”; and

8 (ii) by striking the period at the end
9 and inserting “; or”; and

10 (D) by adding at the end the following new
11 paragraph:

12 “(3) is an employee, officer, or contractor of the
13 United States Government and intentionally dis-
14 closes an application, in whole or in part, for an
15 order under any title of this Act to any person not
16 entitled to receive classified information.”.

17 (2) CONFORMING AMENDMENT.—Subsection (b)
18 of such section is amended by striking “under sub-
19 section (a)” and inserting “under paragraph (1) or
20 (2) of subsection (a)”.

1 **SEC. 208. CONTEMPTS CONSTITUTING CRIMES BEFORE**
 2 **THE FOREIGN INTELLIGENCE SURVEIL-**
 3 **LANCE COURT AND THE FOREIGN INTEL-**
 4 **LIGENCE SURVEILLANCE COURT OF REVIEW.**

5 Section 402 of title 18, United States Code, is
 6 amended by inserting after “any district court of the
 7 United States” the following: “, the Foreign Intelligence
 8 Surveillance Court or the Foreign Intelligence Surveillance
 9 Court of Review established by section 103 of the Foreign
 10 Intelligence Surveillance Act of 1978 (50 U.S.C. 1803),”.

11 **SEC. 209. EFFECTIVE AND INDEPENDENT ADVICE FOR THE**
 12 **FOREIGN INTELLIGENCE SURVEILLANCE**
 13 **COURT AND THE FOREIGN INTELLIGENCE**
 14 **SURVEILLANCE COURT OF REVIEW.**

15 Section 103 of the Foreign Intelligence Surveillance
 16 Act of 1978 (50 U.S.C. 1803), as amended by section 206,
 17 is further amended by adding at the end the following new
 18 subsection:

19 “(m) INDEPENDENT LEGAL ADVISORS.—

20 “(1) AUTHORITY.—The Foreign Intelligence
 21 Surveillance Court and the Foreign Intelligence Sur-
 22 veillance Court of Review may jointly employ legal
 23 advisors to assist the courts in all aspects of consid-
 24 ering any matter before the courts, including with
 25 respect to—

1 “(A) providing advice on issues of law or
2 fact presented by any application for an order
3 under this Act;

4 “(B) requesting information from the Gov-
5 ernment in connection with any such applica-
6 tion;

7 “(C) identifying any concerns with any
8 such application; and

9 “(D) proposing requirements or conditions
10 for the approval of any such application.

11 “(2) DIRECTION.—The legal advisors employed
12 under paragraph (1) shall be subject solely to the di-
13 rection of the presiding judges of the Foreign Intel-
14 ligence Surveillance Court and the Foreign Intel-
15 ligence Surveillance Court of Review.”.

16 **SEC. 210. ENHANCEMENTS TO CONGRESSIONAL OVER-**
17 **SIGHT.**

18 (a) IN GENERAL.—Section 601 of the Foreign Intel-
19 ligence Surveillance Act of 1978 (50 U.S.C. 1871) is
20 amended—

21 (1) by redesignating subsection (e) as sub-
22 section (f); and

23 (2) by inserting after subsection (d) the fol-
24 lowing new subsection (e):

1 “(e) CONGRESSIONAL OVERSIGHT.—In a manner
 2 consistent with the protection of the national security,
 3 nothing in this Act or any other provision of law may be
 4 construed to preclude the Select Committee on Intelligence
 5 of the Senate and the Permanent Select Committee on In-
 6 telligence of the House of Representatives from receiving
 7 in a timely manner, upon request, applications submitted
 8 under this Act to the Foreign Intelligence Surveillance
 9 Court, orders of the court, and relevant materials relating
 10 to such applications and orders.”.

11 (b) CONFORMING AMENDMENT.—Section 602(a) of
 12 such Act (50 U.S.C. 1872(a)) is amended by striking “in
 13 section 601(e)” and inserting “in section 601(f)”.

14 **SEC. 211. ESTABLISHMENT OF COMPLIANCE OFFICERS.**

15 (a) IN GENERAL.—Title VI of the Foreign Intel-
 16 ligence Surveillance Act of 1978 (50 U.S.C. 1871 et seq.)
 17 is amended by adding at the end the following new section:

18 **“SEC. 605. COMPLIANCE OFFICERS.**

19 “(a) DEFINITIONS.—In this section:

20 “(1) APPROPRIATE CONGRESSIONAL COMMIT-
 21 TEES.—The term ‘appropriate congressional com-
 22 mittees’ means—

23 “(A) the Select Committee on Intelligence
 24 and the Committee on the Judiciary of the Sen-
 25 ate; and

1 “(B) the Permanent Select Committee on
2 Intelligence and the Committee on the Judici-
3 ary of the House of Representatives.

4 “(2) COVERED AGENCY.—The term ‘covered
5 agency’ means a department or agency of the United
6 States Government that has the authority to submit
7 applications to the Foreign Intelligence Surveillance
8 Court under this Act and which receives
9 unminimized collection pursuant to orders issued
10 under this Act.

11 “(3) FOREIGN INTELLIGENCE SURVEILLANCE
12 COURT.—The term ‘Foreign Intelligence Surveillance
13 Court’ has the meaning given that term in section
14 101.

15 “(b) APPOINTMENT.—The head of each covered
16 agency shall appoint a single Federal officer to serve as
17 the Compliance Officer for that agency.

18 “(c) COMPLIANCE.—Each Compliance Officer ap-
19 pointed under subsection (b) shall be responsible for over-
20 seeing the compliance of the relevant covered agency with
21 the requirements of this Act.

22 “(d) AUDITS.—Each Compliance Officer shall over-
23 see routine audits of the compliance by the relevant cov-
24 ered agency with—

1 “(1) the requirements of this Act regarding
2 submitting applications to the Foreign Intelligence
3 Surveillance Court, including with respect to the ac-
4 curacy of such applications; and

5 “(2) the minimization, targeting, querying, and
6 accuracy procedures required by this Act.

7 “(e) ASSESSMENTS.—Each Compliance Officer
8 shall—

9 “(1) conduct on a routine basis assessments of
10 the efficacy of the minimization, targeting, querying,
11 and accuracy procedures adopted by the Attorney
12 General pursuant to this Act; and

13 “(2) annually submit to the Assistant Attorney
14 General designated as the Assistant Attorney Gen-
15 eral for National Security under section 507A of
16 title 28, United States Code, and the head of the
17 relevant covered agency the findings of such assess-
18 ments, including any recommendations of the Com-
19 pliance Officer with respect to improving such proce-
20 dures.

21 “(f) REMEDIATION.—Each Compliance Officer shall
22 ensure the appropriate remediation of any compliance
23 issues of the relevant covered agency identified pursuant
24 to this section or the rules of the Foreign Intelligence Sur-
25 veillance Court.

1 “(g) INSPECTORS GENERAL ASSESSMENTS.—On an
 2 annual basis, and consistent with the protection of sources
 3 and methods, each Inspector General of a covered agency
 4 shall submit to the Foreign Intelligence Surveillance Court
 5 and the appropriate congressional committees an assess-
 6 ment of the implementation of this section by the covered
 7 agency.”.

8 (b) CLERICAL AMENDMENT.—The table of sections
 9 at the beginning of the Foreign Intelligence Surveillance
 10 Act of 1978 is amended by inserting after the item relat-
 11 ing to section 604 the following new item:

“Sec. 605. Compliance officers.”.

12 **SEC. 212. FISA REFORM COMMISSION.**

13 (a) ESTABLISHMENT.—

14 (1) IN GENERAL.—There is established a com-
 15 mission to consider ongoing reforms to the Foreign
 16 Intelligence Surveillance Act of 1978 (50 U.S.C.
 17 1801 et seq.).

18 (2) DESIGNATION.—The commission estab-
 19 lished under paragraph (1) shall be known as the
 20 “FISA Reform Commission” (in this section the
 21 “Commission”).

22 (b) MEMBERSHIP.—

23 (1) COMPOSITION.—

1 (A) IN GENERAL.—Subject to subpara-
2 graph (B), the Commission shall be composed
3 of the following members:

4 (i) The Principal Deputy Director of
5 National Intelligence.

6 (ii) The Deputy Attorney General.

7 (iii) The Deputy Secretary of Defense.

8 (iv) The Deputy Secretary of State.

9 (v) The Chair of the Privacy and Civil
10 Liberties Oversight Board.

11 (vi) Three members appointed by the
12 majority leader of the Senate, in consulta-
13 tion with the Chairman of the Select Com-
14 mittee on Intelligence of the Senate and
15 the Chairman of the Committee on the Ju-
16 diciary of the Senate, 1 of whom shall be
17 a member of the Senate and 2 of whom
18 shall not be.

19 (vii) Three members appointed by the
20 minority leader of the Senate, in consulta-
21 tion with the Vice Chairman of the Select
22 Committee on Intelligence of the Senate
23 and the Ranking Member of the Com-
24 mittee on the Judiciary of the Senate, 1 of

whom shall be a member of the Senate and
2 of whom shall not be.

(viii) Three members appointed by the
Speaker of the House of Representatives,
in consultation with the Chairman of the
Permanent Select Committee on Intel-
ligence of the House of Representatives
and the Chairman of the Committee on the
Judiciary of the House of Representatives,
1 of whom shall be a member of the House
of Representatives and 2 of whom shall not
be.

(ix) Three members appointed by the
minority leader of the House of Represent-
atives, in consultation with the Ranking
Member of the Permanent Select Com-
mittee on Intelligence of the House of Rep-
resentatives and the Ranking Member of
the Committee on the Judiciary of the
House of Representatives, 1 of whom shall
be a member of the House of Representa-
tives and 2 of whom shall not be.

(B) NONMEMBERS OF CONGRESS.—

(i) QUALIFICATIONS.—The members
of the Commission who are not Members

1 of Congress and who are appointed under
2 clauses (iv) through (vii) of subparagraph
3 (A) shall be individuals who are nationally
4 recognized for expertise, knowledge, or ex-
5 perience in—

6 (I) use of intelligence information
7 by the intelligence community (as de-
8 fined in section 3 of the National Se-
9 curity Act of 1947 (50 U.S.C. 3003)),
10 national policymakers and military
11 leaders;

12 (II) the implementation, funding,
13 or oversight of the national security
14 laws of the United States;

15 (III) privacy, civil liberties, and
16 transparency; or

17 (IV) laws and policies governing
18 methods of electronic surveillance.

19 (ii) CONFLICTS OF INTEREST.—An of-
20 ficial who appoints members of the Com-
21 mission may not appoint an individual as
22 a member of the Commission if such indi-
23 vidual possesses any personal or financial
24 interest in the discharge of any of the du-
25 ties of the Commission.

1 (iii) SECURITY CLEARANCES.—All
2 members of the Commission described in
3 clause (i) shall possess an appropriate se-
4 curity clearance in accordance with appli-
5 cable provisions of law concerning the han-
6 dling of classified information.

7 (2) CO-CHAIRS.—

8 (A) IN GENERAL.—The Commission shall
9 have 2 co-chairs, selected from among the mem-
10 bers of the Commission.

11 (B) AGREEMENT.—The individuals who
12 serve as the co-chairs of the Commission shall
13 be agreed upon by the members of the Commis-
14 sion.

15 (c) APPOINTMENT; INITIAL MEETING.—

16 (1) APPOINTMENT.—Members of the Commis-
17 sion shall be appointed not later than 90 days after
18 the date of the enactment of this Act.

19 (2) INITIAL MEETING.—The Commission shall
20 hold its initial meeting on or before the date that is
21 180 days after the date of the enactment of this Act.

22 (d) MEETINGS; QUORUM; VACANCIES.—

23 (1) IN GENERAL.—After its initial meeting, the
24 Commission shall meet upon the call of the co-chairs
25 of the Commission.

1 (2) QUORUM.—Nine members of the Commis-
2 sion shall constitute a quorum for purposes of con-
3 ducting business, except that 2 members of the
4 Commission shall constitute a quorum for purposes
5 of receiving testimony.

6 (3) VACANCIES.—Any vacancy in the Commis-
7 sion shall not affect its powers, but shall be filled in
8 the same manner in which the original appointment
9 was made.

10 (4) QUORUM WITH VACANCIES.—If vacancies in
11 the Commission occur on any day after 90 days
12 after the date of the enactment of this Act, a
13 quorum shall consist of a majority of the members
14 of the Commission as of such day.

15 (e) DUTIES.—The duties of the Commission are as
16 follows:

17 (1) To review the effectiveness of the current
18 implementation of the Foreign Intelligence Surveil-
19 lance Act of 1978 (50 U.S.C. 1801 et seq.).

20 (2) To develop recommendations for legislative
21 action to reform the Foreign Intelligence Surveil-
22 lance Act of 1978 (50 U.S.C. 1801 et seq.) that pro-
23 vide for the effective conduct of United States intel-
24 ligence activities and the protection of privacy and
25 civil liberties.

1 (f) POWERS OF COMMISSION.—

2 (1) IN GENERAL.—

3 (A) HEARINGS.—The Commission or, on
4 the authorization of the Commission, any sub-
5 committee or member thereof, may, for the pur-
6 pose of carrying out this section—

7 (i) hold such hearings and sit and act
8 at such times and places, take such testi-
9 mony, receive such evidence, and admin-
10 ister such oaths; and

11 (ii) require, by subpoena or otherwise,
12 the attendance and testimony of such wit-
13 nesses and the production of such books,
14 records, correspondence, memoranda, pa-
15 pers, and documents, as the Commission
16 or such designated subcommittee or des-
17 ignated member considers necessary.

18 (B) ISSUANCE AND ENFORCEMENT OF
19 SUBPOENAS.—

20 (i) ISSUANCE.—A subpoena issued
21 under subparagraph (A)(ii) shall—

22 (I) bear the signature of the co-
23 chairs of the Commission; and

1 (II) be served by a person or
 2 class of persons designated by the co-
 3 chairs for that purpose.

4 (ii) ENFORCEMENT.—The provisions
 5 of sections 102 through 104 of the Revised
 6 Statutes of the United States (2 U.S.C.
 7 192–194) shall apply in the case of any
 8 failure of a witness to comply with any
 9 subpoena or to testify when summoned
 10 under authority of this paragraph.

11 (2) INFORMATION FROM FEDERAL AGENCIES.—

12 (A) IN GENERAL.—The Commission may
 13 secure directly from any executive department,
 14 agency, bureau, board, commission, office, inde-
 15 pendent establishment, or instrumentality of the
 16 Federal Government information, suggestions,
 17 estimates, and statistics for the purposes of this
 18 section.

19 (B) FURNISHING INFORMATION.—Each
 20 such department, agency, bureau, board, com-
 21 mission, office, establishment, or instrumen-
 22 tality described in subparagraph (A) shall, to
 23 the extent authorized by law, furnish such in-
 24 formation, suggestions, estimates, and statistics

1 directly to the Commission, upon request of the
2 co-chairs of the Commission.

3 (C) PROTECTION OF CLASSIFIED INFORMA-
4 TION.—The Commission shall handle and pro-
5 tect all classified information provided to it
6 under this section in accordance with applicable
7 provisions of law.

8 (3) ASSISTANCE FROM FEDERAL AGENCIES.—

9 (A) DIRECTOR OF NATIONAL INTEL-
10 LIGENCE.—The Director of National Intel-
11 ligence shall provide to the Commission, on a
12 nonreimbursable basis, such administrative
13 services, funds, staff, facilities, and other sup-
14 port services as are necessary for the perform-
15 ance of the duties of the Commission under this
16 section.

17 (B) ATTORNEY GENERAL.—The Attorney
18 General may provide the Commission, on a non-
19 reimbursable basis, with such administrative
20 services, staff, and other support services as the
21 Commission may request.

22 (C) OTHER DEPARTMENTS AND AGEN-
23 CIES.—In addition to the assistance set forth in
24 subparagraphs (A) and (B), other departments
25 and agencies of the United States may provide

1 the Commission such services, funds, facilities,
2 staff, and other support as such departments
3 and agencies consider advisable and as may be
4 authorized by law.

5 (D) COOPERATION.—The Commission
6 shall receive the full and timely cooperation of
7 any official, department, or agency of the Fed-
8 eral Government whose assistance is necessary,
9 as jointly determined by the co-chairs selected
10 under subsection (b)(2), for the fulfillment of
11 the duties of the Commission, including the
12 provision of full and current briefings and anal-
13 yses.

14 (4) POSTAL SERVICES.—The Commission may
15 use the United States postal services in the same
16 manner and under the same conditions as the de-
17 partments and agencies of the Federal Governments.

18 (5) GIFTS.—No member or staff of the Com-
19 mission may receive a gift or benefit by reason of
20 the service of such member or staff to the Commis-
21 sion.

22 (g) STAFF OF COMMISSION.—

23 (1) APPOINTMENT AND COMPENSATION OF
24 STAFF.—The co-chairs of the Commission, in ac-
25 cordance with rules agreed upon by the Commission,

1 shall appoint and fix the compensation of a staff di-
2 rector and such other personnel as may be necessary
3 to enable the Commission to carry out its duties,
4 without regard to the provisions of title 5, United
5 States Code, governing appointments in the competi-
6 tive service, and without regard to the provisions of
7 chapter 51 and subchapter III of chapter 53 of such
8 title relating to classification and General Schedule
9 pay rates, except that no rate of pay fixed under this
10 subsection may exceed the equivalent of that payable
11 to a person occupying a position at level V of the
12 Executive Schedule under section 5316 of such title.

13 (2) DETAIL OF GOVERNMENT EMPLOYEES.—
14 Any Federal Government employee may be detailed
15 to the Commission without reimbursement from the
16 Commission, and such detailee shall retain the
17 rights, status, and privileges of his or her regular
18 employment without interruption.

19 (3) SECURITY CLEARANCES.—All staff of the
20 Commission and all experts and consultants em-
21 ployed by the Commission shall possess a security
22 clearance in accordance with applicable provisions of
23 law concerning the handling of classified informa-
24 tion.

25 (h) COMPENSATION AND TRAVEL EXPENSES.—

1 (1) COMPENSATION OF MEMBERS.—

2 (A) IN GENERAL.—Except as provided in
3 paragraph (2), each member of the Commission
4 may be compensated at not to exceed the daily
5 equivalent of the annual rate of basic pay in ef-
6 fect for a position at level IV of the Executive
7 Schedule under section 5315 of title 5, United
8 States Code, for each day during which that
9 member is engaged in the actual performance of
10 the duties of the Commission under this title.

11 (B) EXCEPTION.—Members of the Com-
12 mission who are officers or employees of the
13 United States or Members of Congress shall re-
14 ceive no additional pay by reason of their serv-
15 ice on the Commission.

16 (2) TRAVEL EXPENSES.—While away from
17 their homes or regular places of business in the per-
18 formance of services for the Commission, a member
19 of the Commission may be allowed travel expenses,
20 including per diem in lieu of subsistence, in the
21 same manner as persons employed intermittently in
22 the Government service are allowed expenses under
23 section 5703 of title 5, United States Code.

24 (i) TREATMENT OF INFORMATION RELATING TO NA-
25 TIONAL SECURITY.—

1 (1) IN GENERAL.—The Director of National In-
2 telligence shall assume responsibility for the han-
3 dling and disposition of any information related to
4 the national security of the United States that is re-
5 ceived, considered, or used by the Commission under
6 this title.

7 (2) INFORMATION PROVIDED BY CONGRES-
8 SIONAL INTELLIGENCE COMMITTEES.—Any informa-
9 tion related to the national security of the United
10 States that is provided to the Commission by a con-
11 gressional intelligence committee may not be further
12 provided or released without the approval of the
13 chairman of such committee.

14 (3) ACCESS AFTER TERMINATION OF COMMIS-
15 SION.—Notwithstanding any other provision of law,
16 after the termination of the Commission under sub-
17 section (j)(2), only the members and designated staff
18 of the congressional intelligence committees, the Di-
19 rector of National Intelligence (and the designees of
20 the Director), and such other officials of the execu-
21 tive branch of the Federal Government as the Presi-
22 dent may designate shall have access to information
23 related to the national security of the United States
24 that is received, considered, or used by the Commis-
25 sion.

(j) FINAL REPORT; TERMINATION.—

(1) FINAL REPORT.—

(A) DEFINITIONS.—In this paragraph:

(i) APPROPRIATE COMMITTEES OF CONGRESS.—The term “appropriate committees of Congress” means—

(I) the congressional intelligence committees;

(II) the Committee on the Judiciary of the Senate; and

(III) the Committee on the Judiciary of the House of Representatives.

(ii) CONGRESSIONAL LEADERSHIP.—The term “congressional leadership” means—

(I) the majority leader of the Senate;

(II) the minority leader of the Senate;

(III) the Speaker of the House of Representatives; and

(IV) the minority leader of the House of Representatives.

(B) FINAL REPORT REQUIRED.—Not later than 7 years from the date of enactment of this

1 Act, the Commission shall submit to the appro-
2 priate committees of Congress, congressional
3 leadership, the Director of National Intel-
4 ligence, and the Attorney General a final report
5 on the findings of the Commission.

6 (C) FORM OF FINAL REPORT.—The final
7 report submitted pursuant to subparagraph (B)
8 shall be in unclassified form but may include a
9 classified annex.

10 (D) ASSESSMENTS OF FINAL REPORT.—
11 Not later than 1 year after receipt of the final
12 report under subparagraph (B), the Director of
13 National Intelligence and the Attorney General
14 shall each submit to the appropriate committees
15 of Congress and congressional leadership an as-
16 sessment of such report.

17 (2) TERMINATION.—

18 (A) IN GENERAL.—The Commission, and
19 all the authorities of this section, shall termi-
20 nate on the date that is 2 years after the date
21 on which the final report is submitted under
22 paragraph (1)(B).

23 (B) WIND-DOWN PERIOD.—The Commis-
24 sion may use the 120-day period referred to in
25 subparagraph (A) for the purposes of con-

1 cluding its activities, including providing testi-
2 mony to Congress concerning the final report
3 referred to in that paragraph and disseminating
4 the report.

5 (k) INAPPLICABILITY OF CERTAIN ADMINISTRATIVE
6 PROVISIONS.—

7 (1) FEDERAL ADVISORY COMMITTEE ACT.—The
8 provisions of the Federal Advisory Committee Act (5
9 U.S.C. App.) shall not apply to the activities of the
10 Commission under this section.

11 (2) FREEDOM OF INFORMATION ACT.—The pro-
12 visions of section 552 of title 5, United States Code
13 (commonly referred to as the “Freedom of Informa-
14 tion Act”), shall not apply to the activities, records,
15 and proceedings of the Commission under this sec-
16 tion.

17 (l) FUNDING.—

18 (1) AUTHORIZATION OF APPROPRIATIONS.—
19 There is authorized to be appropriated to carry out
20 this section \$3,000,000.

21 (2) AVAILABILITY IN GENERAL.—Subject to
22 paragraph (1), the Director of National Intelligence
23 shall make available to the Commission such
24 amounts as the Commission may require for pur-

1 poses of the activities of the Commission under this
2 section.

3 (3) DURATION OF AVAILABILITY.—Amounts
4 made available to the Commission under paragraph
5 (2) shall remain available until expended or upon
6 termination under subsection (i)(2), whichever oc-
7 curs first.

8 (m) CONGRESSIONAL INTELLIGENCE COMMITTEES
9 DEFINED.—In this section, the term “congressional intel-
10 ligence committees” means—

11 (1) the Select Committee on Intelligence of the
12 Senate; and

13 (2) the Permanent Select Committee on Intel-
14 ligence of the House of Representatives.

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